

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2020-54

By Rick Skoczen Sponsored By Mayor Cyril M. Kleem

AN ORDINANCE

REPEALING AND RECONSTITUTING BEREA CODIFIED ORDINANCE CHAPTER 321, GARBAGE AND RUBBISH, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA, OHIO, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance 2020-4, the City of Berea entered into a contract for garbage and rubbish collection with Kimble Recycling and Disposal, Inc; and

WHEREAS, it is necessary to expressly repeal and reconstitute Chapter 321, Garbage and Rubbish, to comply with the City's new contract with Kimble and for purposes of clarity and uniformity; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio:

SECTION 1. That current Chapter 321, Garbage and Rubbish, of the Codified Ordinances of the City of Berea which has heretofore read as follows:

CROSS REFERENCES

Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01

Employment of scavengers - see Ohio R.C. 3707.39

Disposal and transportation upon public ways - see Ohio R.C. 3767.20 et seq.

Vehicle loads dropping, shifting, leaking - see TRAF. 739.08

Waste, garbage and junk - see GEN. OFF. Ch. 947

Dwelling unit rubbish storage - see BLDG. 1349.06

Dwelling unit garbage disposal - see BLDG. 1349.07

Responsibility for rubbish and garbage disposal - see BLDG. 1347.03, 1357.04

321.01 DEFINITIONS.

As used in this chapter:

(a) "Waste" means all trash, rubbish, garbage, offal and other refuse or discarded matter required to be removed from private and public places. It does not include recognized by-products of any business or industry having commercial value and regularly handled in the ordinary course of business unless such byproducts, or the handling of them, shall be a nuisance or menace to public health. Waste does not mean "yard waste" which is commonly known as leaves, grass clippings, sticks, plant product, trimmings, flowers, organics or clippings generated through ordinary non-commercial use of residential properties and is defined in Section 321(e) hereof.

(b) "Bulk" means waste that is too large in size or volume to fit into refuse containers distributed by the City or a contractor hired by the City to collect waste.

(c) "Non-Bulk" means waste that fits properly into refuse containers distributed by the City or a contractor hired by the City to collect waste.

(d) "Combustible waste" means all waste substances capable of incineration or burning, including, but not limited to, garbage, paper, rags, excelsior, wood, and leaves.

(e) "Noncombustible waste" means all waste substances incapable of incineration or burning including but not limited to, tin cans, tinware and other metallic substances, bottles, glassware, earthenware, dirt, sod, ashes and similar materials, and also discarded materials the greater part of which is incapable of incineration or burning, such as asphalt roofing material, electric batteries and the like.

(f) "Commercial waste" means all wastes, combustible and noncombustible, arising out of the operations of business and industry, and all other wastes not resulting from the ordinary operations of private residences or households.

(g) "Hazardous wastes" means, in accordance with Ohio R.C. 3734.01(J)(1) and (2) any waste or combination of wastes in solid, liquid, semi-solid or contained gaseous form, that in the

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determination of the Director of Environmental Protection, because of its quality, concentration or physical, chemical or infectious characteristics, may:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(2) Pose a substantial present or potential hazard to human health or safety to the environment when improperly stored, treated, transported, disposed of or otherwise managed. Hazardous waste includes any substance identified by regulation as hazardous waste under the "Resources Conservation and Recovery Act of 1976" 90 Stat. 2806, 42 USC 6921, as amended, and does not include any substance that is subject to "Atomic Energy Act of 1954" 68 Stat. 919, 23 USC 2011.

(h) "Garbage" and "refuse" means waste.

(Ord. 2013-77. Passed 11-18-13.)

321.02 CLASSIFICATIONS.

(a) There are hereby established three classifications relating to the collection of refuse which are designated One, Two, Three and Four-Family Residential, Multi-family Residential and Commercial.

(b) The classifications as indicated in subsection (a) hereof shall be defined as follows:

(1) One, Two, Three and Four-Family Residential. All residential structures used and maintained as single-family residences: two, three and four-family structures as well as townhouses not exceeding four units, kept and maintained in the zoning classification designated Standard Single-Family Residential Districts (A, B, or T) as defined by Chapters 201 and 202 of the Zoning Code of the City of Berea.

(2) Multi-Family Residential. All residential structures used and maintained as apartment houses, boarding houses, motels, hotels in excess of four residential units, which shall include all apartment and townhouse structures which house and contain more than four family units, boarding houses, motels, hotels.

(3) Commercial. All structures kept and maintained for the carrying on of commerce of any kind, either wholesale or retail, which shall include all structures kept and maintained in accordance with the uses permitted by the City's zoning classifications of Transitional Office, Neighborhood Commercial, Commercial Center, Bagley Road Commercial District, Downtown District, Uptown District, Depot District, and General Industrial.

(Ord. 2013-77. Passed 11-18-13.)

321.03 REQUIREMENTS.

The following are applicable to the residents of the City for the collection of refuse from residential properties and are subject to periodic change by rules or regulations relating to waste collection issued by the Director of Public Service and published in City publications and/or on the City website:

(a) Non-bulk waste, bulk waste and/or yard waste shall be placed in the City-proscribed or approved container on the tree lawn not more than three feet from the road or street edge, by 7:00 a.m. on the designated collection day. Where the collection is from an alley, placement shall be next to, but not in, the alley. Non-bulk waste, bulk waste or yard waste containers shall not be placed out for collection any earlier than 4:30 p.m. on the day before the collection day.

(b) Non-bulk waste shall be placed in refuse containers proscribed by the City or the waste collection contractor hired by the City. Bulk waste shall be securely fastened in compact and contiguous bundles and be not more than forty pounds total weight per bundle. Bulk waste may also be placed in metal, rubber, plastic or other nonabsorbent cans or containers which shall be watertight and provided with a close-fitting cover, and no fewer than two handles. Such containers shall be of a maximum capacity of thirty gallons and shall weigh no more than forty pounds when loaded.

(c) Garbage shall be completely drained. Garbage disposals shall be used whenever possible.

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(2) Multi-Family Residential. All residential structures used and maintained as apartment houses, boarding houses, motels, hotels in excess of four residential units, which shall include all apartment and townhouse structures which house and contain more than four family units, boarding houses, motels, hotels.

(3) Commercial. All structures kept and maintained for the carrying on of commerce of any kind, either wholesale or retail, which shall include all structures kept and maintained in accordance with the uses permitted by the City's zoning classifications of Transitional Office, Neighborhood Commercial, Commercial Center, Bagley Road Commercial District, Downtown District, Uptown District, Depot District, and General Industrial.

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(a) Non-bulk waste, bulk waste and/or yard waste shall be placed in the City-proscribed or approved container on the tree lawn not more than three feet from the road or street edge, by 7:00 a.m. on the designated collection day. Where the collection is from an alley, placement shall be next to, but not in, the alley. Non-bulk waste, bulk waste or yard waste containers shall not be placed out for collection any earlier than 4:30 p.m. on the day before the collection day.

(b) Non-bulk waste shall be placed in refuse containers proscribed by the City or the waste collection contractor hired by the City. Bulk waste shall be securely fastened in compact and contiguous bundles and be not more than forty pounds total weight per bundle. Bulk waste may also be placed in metal, rubber, plastic or other nonabsorbent cans or containers which shall be watertight and provided with a close-fitting cover, and no fewer than two handles. Such containers shall be of a maximum capacity of thirty gallons and shall weigh no more than forty pounds when loaded.

(c) Garbage shall be completely drained. Garbage disposals shall be used whenever possible.

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(d) Bulk, non-bulk and/or yard waste placed on the tree lawn on any day not designated for bulk waste collection shall be immediately considered a threat to the health, safety and welfare of the community and declared a nuisance.

(e) Nails, staples and wire shall be removed from any wood or other waste, whether bulk or not. All cardboard shall be recycled when possible.

(f) It is City policy to recycle yard waste as much as practical.

(1) "Yard waste" is defined as leaves, grass clippings, small sticks, plant product, trimmings, flowers, organics or clippings generated through ordinary non-commercial use of residential properties. Yard waste shall be placed in brown paper yard waste bags or in standard garbage cans marked "Yard Waste". Yard waste bags and garbage containers filled with yard waste shall not weigh more than 40 lbs. Yard waste is not picked up year-round. The dates of yard waste pick up are determined annually by the Director of Public Service.

(2) Examples of "Bulk Yard Waste" include tree branches and shrubs. Bulk waste shall be bundled and not more than three feet in length, fifteen inches in diameter and weigh no more than 40 lbs. All thorns and spikes shall be removed. When regular yard waste pick-up is not offered, bulk yard waste may be placed out for collection on scheduled bulk trash pickup days.

(g) For bulk waste collection, carpeting shall be rolled and tied in lengths not to exceed six feet, and bundles not weighing more than forty pounds. For non-bulk waste collection, carpeting shall be placed into the refuse containers.

(h) Gutters and downspouts shall be recycled when possible. If recycling is not practical for gutters and downspouts, they shall be cut into lengths of six feet or less and bundled in no more than fifteen inches in diameter and no more than forty pounds maximum weight.

(i) Bulk waste collection of tables, benches, lawn furniture, swings and the like shall be dismantled, tied in bundles not exceeding six feet in length, fifteen inches in diameter and fifty pounds maximum weight. Non-bulk waste collection of tables, benches, lawn furniture, swings and the like shall be dismantled and cut into pieces that will fit into the waste containers.

(j) Refrigerators and freezers shall have doors removed pursuant to Section 921.01. Refrigerators and freezers shall be placed for bulk refuse collection.

(k) Refuse containers and recycling containers shall be removed from the tree lawn and stored in accordance with the provisions of this Section no later than 10 a.m. on the day following collection.

(l) Refuse containers and other such receptacles, except when placed out for collection in accordance with this Section, shall be kept behind the setback building line established by the Zoning Ordinance and Zoning Map of the City for such property, and shall be stored in such a manner as to be substantially screened from view from the street. (Ord. 2016-34. Passed 4-4-16.)

321.04 COLLECTION BY CLASSIFICATION:

The City will provide refuse pickup service in accordance with the following regulations:

(a) Low-Density Residential; and Condominium Units. The City will provide refuse pickup service for one, two, three and four-family residences and for multi-family condominium units in accordance with schedules and regulations adopted by the Department of Public Service. All refuse shall be placed for pickup in accordance with Section 321.03.

(b) Medium to High Density Residential. The City will not provide for refuse collection from medium to high density residences. These include all residential structures having more than four dwelling units, except multi-family condominium units. All refuse from this classification shall be disposed of in accordance with Section 321.03 and not in violation of state and federal environmental protection laws.

(c) Commercial-Industrial. The City will not provide for waste collection from this classification. All waste from these properties shall be disposed of by private or commercial means, and not in violation of state and federal environmental protection laws.

No person, firm or corporation shall direct, permit or supervise collection of garbage, or commercial waste at commercial or industrial establishments and/or medium to high density residential facilities before 7:00 a.m. or after 9:00 p.m. in the City.

(Ord. 2013-77. Passed 11-18-13.)

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321.05 NOTICE AND SEIZURE OF DEFECTIVE CONTAINERS.

No person shall place any refuse or yard waste for collection in containers which are in poor repair or which have rough or sharp edges or other defects which render them dangerous to handle. The Director of Public Service or his/or her authorized agents are authorized to seize and destroy any such containers, provided that written notice is given to the owner or person, firm or corporation owning or having control of such containers that such containers are dangerous or unsuitable for use. If such containers are not replaced or satisfactorily repaired prior to the next collection of refuse following such written notice then such containers shall be seized and destroyed as authorized herein.

(Ord. 2013-77. Passed 11-18-13.)

321.06 UPSETTING CONTAINER CONTENTS.

No person shall turn over or upset or dump out the contents of any waste container or waste bundle on any street, sidewalk or other public place.

(Ord. 2013-77. Passed 11-18-13.)

321.07 RECYCLING, UNAUTHORIZED REMOVAL OF RECYCLABLE MATERIAL.

(a) Residents are highly encouraged to use the designated recycle waste receptacle as much as possible. Recycling reduces the cost to the City for waste disposal, prolongs the lifespan of the existing landfill in use by the City and is good for the environment. The following material shall be recycled when practical: newspaper; glass; aluminum, steel, copper, bimetal cans; food and beverage cans; miscellaneous paper; cardboard; plastics number 1-7 and any other products specified by the City's "Guide To Recycling" or other official material published by the City or the City's Contractor pursuant to City authorization, may be separated and placed into recycling containers for pickup under the City's recycling program. While recycling is not presently mandatory, all citizens are highly encouraged to participate.

(b) No person other than the proper City employee(s) or refuse collection contractor(s) shall remove from the curbside any material placed there and marked in accordance with this section for the City's recycling program.

(c) Violation of this section shall constitute a minor misdemeanor for the first offense, and a misdemeanor of the first degree for any second or subsequent offense within a time period of one year. A separate violation may be charged for each property or address from which marked material is taken. (Ord. 2013-77. Passed 11-18-13.)

321.08 COMMERCIAL OR HAZARDOUS WASTE.

(a) No person shall knowingly or unknowingly place any commercial or hazardous waste out for waste collection.

(b) Whoever violates this section shall be deemed guilty of a misdemeanor of the first degree and no court shall suspend any portion of the first five hundred dollars (\$500.00) of any fine levied for conviction under this section or from the costs associated thereto.

(Ord. 2013-77. Passed 11-18-13.)

321.09 REFUSE DISPOSAL.

(a) No person shall place or dispose of, in any manner, any garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil, hazardous waste or commercial waste, or anything else of an unsightly or unsanitary nature on any City owned, controlled or administered land, or in any ditch, stream, river, lake, pond, or other watercourse, except those waters which do not combine or effect a junction with natural surface or underground waters, or upon the bank thereof where the same is liable to be washed into the water either by ordinary flow or floods. This section does not apply to any substance placed under authority of a permit issued under Ohio R.C. 6111.04 or exempted by such section from its terms. (ORC 1531.29)

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(b) No person not a resident of the City shall bring trash or waste into the City and place it on any public or private property for collection by the City Department of Public Service or a refuse collection contractor hired by the City.

(c) Whoever violates subsections (a) or (b) hereof is guilty of a misdemeanor of the third degree. (Ord. 2013-77. Passed 11-18-13.)

321.10 EXPOSED WASTE.

(a) No person shall leave waste unreasonably exposed in excess of twenty-four hours in any building or on any property, public or private.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (Ord. 2013-77. Passed 11-18-13.)

321.11 COMPOSTING.

(a) No property owner or person in charge of premises shall maintain or cause to be maintained a compost pile within the City except in full compliance with the provisions of this section.

(b) Definition. As used in this section, "compost pile" means any outdoor pile of organic waste matter permitted to decompose for use on the property where the compost pile is maintained.

(c) Ingredients. A compost pile may consist of combinations of leaves, grass clippings, garden plants and vegetable trimmings, fruit and vegetable matter, nitrogenous based chemicals or fertilizers, lime and water. A compost pile shall not have within it any carnivorous animal manure, vegetable substances other than those specifically permitted herein, cooked kitchen waste, grease, meat, bones and fats or other food scraps.

(d) Formation. A compost pile shall be started at ground level and shall be layered in alternate layers of six to twelve inches separated by nitrogen-based chemicals and/or fertilizers and/or lime, and no such pile shall exceed five feet in height above ground level. Compost piles may also contain layers of soil and herbivore manure. Each compost pile shall be fully enclosed with a fence or other enclosure and shall be completely turned, top to bottom, at least monthly, except between November and March of each year. Composting may also be done within a wholly confined commercial composter.

(e) Location. All compost piles shall be located on the property of the owner or other person lawfully in charge of the property or premises, at least five feet away from any property line, and no closer than thirty feet to any adjoining residential structure, on or off the lot.

(f) Noxious Odors. Compost pile shall be maintained in a manner so as not to cause any offensive or noxious odors.

(g) Removal. Any compost pile in the City which is found to be in violation of these regulations shall be completely removed within seven days after receipt of a written notice from the City to the owner or other person lawfully in possession of the property in which the compost pile is located. Failure to remove a compost pile pursuant to such a notice shall be deemed a criminal violation of this section.

(h) Noncompliance; Remedy of City. If such property owner or other person lawfully in charge of the premises upon which the compost pile is located neglects or refuses to obey such notice as provided for hereinabove, then the Director of Public Service or a properly authorized employee or agent of the Director or Department of Public Service shall be and is hereby authorized to bring the compost pile into compliance or remove the compost pile at the expense of such owner or other person having charge thereof. All expenses incurred by the City for removal and disposition of a compost pile, together with an administrative charge of fifty dollars (\$50.00) for each such removal, shall be reported to the Director of Finance, who shall mail a statement of the amount thereof to the owner and/or person in charge of the property from which the compost pile was removed. If, after thirty days, such amount remains unpaid, the Director of Finance shall certify the total amount of the expenses, the name of the owner of the land and a sufficient description of the premises to the Cuyahoga County Auditor to be entered upon the tax duplicate to be a lien on the land from the date of entry, and to be collected as other taxes and assessments, and returned to the City pursuant to Ohio Revised Code, Section 731.54.

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(i) Penalty. Any person violating any provision of this section is guilty of a minor misdemeanor upon a first offense, and a fourth-degree misdemeanor upon being found guilty of any subsequent offense.

(Ord. 2013-77. Passed 11-18-13.)

321.12 RULES AND REGULATIONS.

The Director of Public Service is authorized and directed to prepare and publish rules for the effective administration and enforcement of the provisions of this chapter. Any such rules shall be updated from time to time and are to be supplemental to, and not in conflict with, this Chapter and shall have the force of law.

(Ord. 2013-77. Passed 11-18-13.)

321.13 HOURS OF COLLECTION AND TRANSPORTATION.

No person owning or driving a vehicle hauling solid waste shall cause the collection, transportation or transfer of such waste other than between the hours of 7:00 a.m. and 10:00 p.m. No collection, transportation or transfer shall occur on Saturdays after 4:00 p.m. or at any time on Sundays. Application for exceptions to this provision may be made to the Director of Public Service, on a form provided by the Director. Such exceptions shall be granted only where the applicant is able to demonstrate circumstances of great practical difficulty in the collection and transportation of solid waste in areas where there is heavy daytime vehicular and/or pedestrian traffic and/or a concentration of commercial activity.

(Ord. 2013-77. Passed 11-18-13.)

321.14 REFUSE AS A NUISANCE.

The existence, upon any lot or parcel of land within the City, of refuse that is not in conformance with this Chapter is a threat to the health, safety and welfare of the community and is declared a nuisance. Upon discovery of a nuisance, the Director of Public Service, or a designee, shall place written notice upon the property adjacent to the nuisance. The notice shall set forth the nature of the nuisance; the estimate of the cost of abating the same; a direction that the nuisance be abated within 24 hours and the statement that unless the nuisance is abated within 24 hours it may be abated by the City and the cost of abatement assessed to the real estate involved, and that the City may, if the nuisance is not so abated, in addition to such assessment, prosecute the owner for failure to comply with the direction of the Director of Public Service.

(Ord. 2013-77. Passed 11-18-13.)

321.99 PENALTY.

Any person, firm, corporation or other entity which violates any provision of this chapter, or rule prepared and published pursuant to Section 321.12 for which no other penalty has been specifically provided is guilty of a minor misdemeanor on a first offense and a fourth-degree misdemeanor upon any subsequent offense.

(Ord. 2014-55. Passed 6-9-14.)

shall be, and is hereby amended to read as follows:

CROSS REFERENCES

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321.01 RULES AND REGULATIONS.

The Director of Public Service is authorized to promulgate rules and regulations governing garbage, rubbish and recycling and is directed to prepare and publish the regulations for the effective administration and enforcement of the provisions of this chapter. Any such rules and regulations shall be updated from time to time and are to be supplemental to, and not in conflict with, this Chapter and shall have the force of law.

321.02 CLASSIFICATIONS.

(a) There are hereby established three classifications relating to the collection of refuse which are designated One, Two, Three and Four-Family Residential, Multi-family Residential and Commercial.

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(2) Multi-Family Residential. All residential structures used and maintained as apartment houses, boarding houses, motels, hotels in excess of four residential units, which shall include all apartment and townhouse structures which house and contain more than four family units, boarding houses, motels, hotels.

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(b) Medium to High Density Residential. The City will not provide for refuse collection from medium to high density residences. These include all residential structures having more than four dwelling units, except multi-family condominium units. All refuse from this classification shall be disposed of in accordance with the rules and regulations promulgated by the Director of Public Service pursuant to Section 321.01 and not in violation of state and federal environmental protection laws.

(c) Commercial-Industrial. The City will not provide for waste collection from this classification. All waste from these properties shall be disposed of by private or commercial means, and not in violation of state and federal environmental protection laws.

No person, firm or corporation shall direct, permit or supervise collection of garbage, or commercial waste at commercial or industrial establishments and/or medium to high density residential facilities before 7:00 a.m. or after 9:00 p.m. in the City.

321.04 COMMERCIAL OR HAZARDOUS WASTE.

(a) No person shall knowingly or unknowingly place any commercial or hazardous waste out for waste collection.

(b) Whoever violates this section shall be deemed guilty of a misdemeanor of the first degree and no court shall suspend any portion of the first five hundred dollars (\$500.00) of any fine levied for conviction under this section or from the costs associated thereto.

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By Skoczen Sponsored By Mayor Kream

321.05 REFUSE DISPOSAL.

(a) No person shall place or dispose of, in any manner, any garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil, hazardous waste or commercial waste, or anything else of an unsightly or unsanitary nature on any City owned, controlled or administered land, or in any ditch, stream, river, lake, pond, or other watercourse, except those waters which do not combine or effect a junction with natural surface or underground waters, or upon the bank thereof where the same is liable to be washed into the water either by ordinary flow or floods. This section does not apply to any substance placed under authority of a permit issued under Ohio R.C. 6111.04 or exempted by such section from its terms. (ORC 1531.29)

(b) No person not a resident of the City shall bring trash or waste into the City and place it on any public or private property for collection by the City Department of Public Service or a refuse collection contractor hired by the City.

(c) Whoever violates subsections (a) or (b) hereof is guilty of a misdemeanor of the third degree.

321.06 EXPOSED WASTE.

(a) No person shall leave waste unreasonably exposed in excess of twenty-four hours in any building or on any property, public or private.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

321.07 COMPOSTING.

(a) No property owner or person in charge of premises shall maintain or cause to be maintained a compost pile within the City except in full compliance with the provisions of this section.

(b) Definition. As used in this section, "compost pile" means any outdoor pile of organic waste matter permitted to decompose for use on the property where the compost pile is maintained.

(c) Ingredients. A compost pile may consist of combinations of leaves, grass clippings, garden plants and vegetable trimmings, fruit and vegetable matter, nitrogenous based chemicals or fertilizers, lime and water. A compost pile shall not have within it any carnivorous animal manure, vegetable substances other than those specifically permitted herein, cooked kitchen waste, grease, meat, bones and fats or other food scraps.

(d) Formation. A compost pile shall be started at ground level and shall be layered in alternate layers of six to twelve inches separated by nitrogen-based chemicals and/or fertilizers and/or lime, and no such pile shall exceed five feet in height above ground level. Compost piles may also contain layers of soil and herbivore manure. Each compost pile shall be fully enclosed with a fence or other enclosure and shall be completely turned, top to bottom, at least monthly, except between November and March of each year. Composting may also be done within a wholly confined commercial composter.

(e) Location. All compost piles shall be located on the property of the owner or other person lawfully in charge of the property or premises, at least five feet away from any property line, and no closer than thirty feet to any adjoining residential structure, on or off the lot.

(f) Noxious Odors. Compost pile shall be maintained in a manner so as not to cause any offensive or noxious odors.

(g) Removal. Any compost pile in the City which is found to be in violation of these regulations shall be completely removed within seven days after receipt of a written notice from the City to the owner or other person lawfully in possession of the property in which the compost pile is located. Failure to remove a compost pile pursuant to such a notice shall be deemed a criminal violation of this section.

(h) Noncompliance; Remedy of City. If such property owner or other person lawfully in charge of the premises upon which the compost pile is located neglects or refuses to obey such notice as provided for hereinabove, then the Director of Public Service or a properly authorized employee or agent of the Director or Department of Public Service shall be and is hereby authorized to bring the compost pile into compliance or remove the compost pile at the expense of such owner or other person having charge thereof. All expenses incurred by the City for removal and disposition of a compost pile, together with an administrative charge of fifty dollars (\$50.00) for each such

COUNCIL CHAMBER

City of Berea, Ohio

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By Skaczen Sponsored By Mayor Klum

removal, shall be reported to the Director of Finance, who shall mail a statement of the amount thereof to the owner and/or person in charge of the property from which the compost pile was removed. If, after thirty days, such amount remains unpaid, the Director of Finance shall certify the total amount of the expenses, the name of the owner of the land and a sufficient description of the premises to the Cuyahoga County Auditor to be entered upon the tax duplicate to be a lien on the land from the date of entry, and to be collected as other taxes and assessments, and returned to the City pursuant to Ohio Revised Code, Section 731.54.

(i) Penalty. Any person violating any provision of this section is guilty of a minor misdemeanor upon a first offense, and a fourth-degree misdemeanor upon being found guilty of any subsequent offense.

321.08 REFUSE AS A NUISANCE.

The existence, upon any lot or parcel of land within the City, of refuse that is not in conformance with this Chapter is a threat to the health, safety and welfare of the community and is declared a nuisance. Upon discovery of a nuisance, the Director of Public Service, or a designee, shall place written notice upon the property adjacent to the nuisance. The notice shall set forth the nature of the nuisance; the estimate of the cost of abating the same; a direction that the nuisance be abated within 24 hours and the statement that unless the nuisance is abated within 24 hours it may be abated by the City and the cost of abatement assessed to the real estate involved, and that the City may, if the nuisance is not so abated, in addition to such assessment, prosecute the owner for failure to comply with the direction of the Director of Public Service.

321.99 PENALTY.

Any person, firm, corporation or other entity which violates any provision of this chapter, or rule or regulation promulgated and published pursuant to Section 321.01 for which no other penalty has been specifically provided is guilty of a minor misdemeanor on a first offense and a fourth-degree misdemeanor upon any subsequent offense.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department, and for the further reason that the new contract between the City of Berea and Kimble Recycling & Disposal, Inc. commenced on September 1, 2020 and it is vital to ensure the Berea Codified Ordinances are consistent with the terms of the contract as soon as possible and practicable. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: December 7, 2020

[Signature]
President of Council

ATTEST: [Signature]
Clerk of Council

APPROVED: December 19, 2020

[Signature]
Mayor

Approved as to Form:

[Signature]
Director of Law