

Hauler Ordinance – Proposed Amendments

Revised 1/29/12

Intent of Amendments:

- 1) Reduce compliance requirements from quarterly to bi-annual
- 2) Provide enhanced enforcement against non-compliant haulers
- 3) Support the reporting requirements of the Universal Recycling Ordinance
- 4) Require document of a state annual safety inspection
- 5) Technical corrections

Amendments Notations:

§ 15-6-44: Reduce reporting requirements from quarterly to annual, and specify type of information to be required.

§ 15-6-45: Technical correction to define “competent” driver as a commercially licensed driver.

§ 15-6-46: Increase time period from 10 days to 60 days for reporting of changes to company ownership.

§ 15-6-51: New requirement for annual DPS physical inspection of vehicles.

§ 15-6-52: Reporting requirements. Deletion of claims requirement.

§ 15-6-54: Decal placement changed to side of door.

§ 15-6-56: Reduce reporting requirements from quarterly to bi-annual.

§ 15-6-60: New section regarding enforcement provisions.

Education

- Web-site posting of licensed haulers
- Coordination with Development and Planning Office (building permits)
- Building and construction trade association presentations
- Hauler trade association presentations
- Staff Training to APD and Texas Dept of Public Safety
- Field inspections (Code & APD support)

Enforcement

- Fee based fines
- Prohibition to haul within City if not licensed
- Complaint driven and investigative enforcement
- Construction building site inspections
- Code Enforcement staff – Compliance/Enforcement/Citations
- APD Citation on stopped vehicles
- Pro-Active Enforcement = City staff (4) surveying streets and haul sites

Current Annual Fees

Vehicle and Containers fees are established annually through the City Council fee schedule approval process.

Current FY12 Fees are as follows:

Annual fee per collection vehicle \$100.00 /vehicle

Monthly fee per one to ten cubic yard container (billed quarterly) \$2.85 each

Proposed Expenditures

Pro-Active Enforcement = Code Compliance staff surveying streets and haul sites

Administration = Fee collection, reporting assistance, web-posting, public education

Proposed Fees as recommended based on cost of service provided:

| | |
|--|-----------------------------|
| Annual fee per collection vehicle | \$50.00 /vehicle/six-months |
| Annual fee per one to ten cubic yard container | \$5.00/container/six-months |

Estimated annual revenues from proposed fees:

| | |
|---|------------------|
| 500 Vehicles x \$50.00 bi-annual x 2: | \$ 50,000 |
| 40,000 Containers x \$5.00 bi-annual x 2: | <u>\$750,000</u> |
| Total Projected Annual Revenues: | \$800,000 |

Estimated annual expenses for ordinance support:

| | |
|--|------------------|
| Administration/Accounting/Billing services: | \$ 85,000 |
| Education and Awareness of ordinance: | \$200,000 |
| Enforcement of ordinance (staff & vehicles): | \$430,000 |
| Annual Reports Analysis & Compliance | <u>\$ 85,000</u> |
| Total Projected Annual Expenses: | \$800,000 |

PROPOSED ORDINANCE REVISIONS

Proposed changes in stikeout deletions and red additions

ARTICLE 3. PRIVATE SOLID WASTE COLLECTION SERVICE.

Division 1. General Provisions.

§ 15-6-41 APPLICABILITY.

This article does not apply to:

- (1) a City employee or agent;
- (2) the operator of a vehicle owned by a governmental body and used to transport the governmental body's solid waste;
- (3) a slop or swill hauler who complies with Section [10-5-62](#) (*Permit Required for Slop and Swill Hauler*); or
- (4) a private collection service that hauls refuse from single-family residences only.
- (5) metal recycling companies as defined in Texas Administrative Code (138) Solid Waste (A).
- (6) a residential home owner that hauls refuse from his/her single-family residence.

Source: 1992 Code Section 12-3-63; Ord. 031204-14; Ord. 031211-11.

§ 15-6-42 VEHICLES AND EQUIPMENT.

(A) A licensee shall keep a vehicle or equipment used in a private collection service in clean, sanitary, and safe condition. The department may inspect a licensee's vehicle or equipment at any time.

(B) A licensee may not place a mechanically- handled solid waste container on public property or a public right-of-way, except with the director's approval or the execution of a license agreement with the city.

(C) Any vehicle used for transporting dry solid waste material within the city must:

- (1) be fitted with a substantial, tight-fitting enclosure that is free of any cracks or breaks and that has side boards and head boards of not less than 24 inches in height and a tail board of not less than 18 inches in height, to prevent waste material from being scattered or thrown onto the streets;

(2) be equipped with a closely fitting cover that must be used to prevent the escape of loose material or effluvia; and

(3) be equipped with any other equipment required to comply with all applicable federal and state motor vehicle safety standards.

(D) Any vehicle used for transporting wet solid waste material within the city must:

(1) have a tight-fitting cover to prevent spillage;

(2) when carrying cans to transport wet solid waste material, use only cans equipped with tight-fitting lids and holding chains so that the cans will not turn over and spill;

(3) not have any drain holes in the sides of the vehicle and may have drain holes in the deck of the vehicle or on containers only if they are capped to prevent spillage or leakage; and

(4) be equipped with any other equipment required to comply with all applicable federal and state motor vehicle safety standards.

(E) Before any vehicle not listed in the application for a private solid waste collection license may be placed in service, the licensee must provide written notice to the director of the proposed use of a new or additional vehicle.

(F) Each vehicle to be city licensed shall demonstrate annually documentation that each vehicle has been approved through a Texas Department of Public Safety inspection, to assure compliance under this section. Inspection documentation shall be submitted with the city license application for validation of compliance with this section.

(E) Vehicles placed in service during the calendar year shall submit documentation of an approved Texas Department of Public Safety inspection within 30 days of initial use on City streets.

Source: 1992 Code Section 12-3-61; Ord. 031204-14; Ord. 031211-11; Ord. 20090312-014; Ord. 20090521-017.

§ 15-6-43 DISPLAY OF BUSINESS INFORMATION.

(A) A licensee shall prominently display the name and telephone number of the private collection service on both sides of each vehicle used in the operation of the service.

(B) The licensee shall prominently display the name and telephone number of the private collection service on at least one side of each container used for collection, storage, or disposal of solid waste in the city.

Source: 1992 Code Sections 12-3-62(A) and (B); Ord. 031204-14; Ord. 031211-11.

§ 15-6-44 REPORTING REQUIREMENTS.

(A) A licensee shall maintain a list of the containers used for the collection, storage, or disposal of solid waste that are owned or serviced by the licensee, with the customer number and the location of each container.

(B) A licensee shall file a bi-annual report of the number of containers it services in the city. A licensee shall submit the container fee required by this article with a report filed under this section.

(C) A licensee who provides solid waste collection service under Article 6 or recycling service under [Article 5](#) (*Universal Recycling*) shall file a biannual report with the department that includes:

(1) the amount in tons (reasonable estimate) of each type of material: solid waste, recyclables, and organic materials collected and transported to a receiving facility; and

(2) submitted by July 31st (for the period January 1 - June 30), and January 31st (for the period July 1 – December 31st) of each year; and

(3) submitted on a city-issued form that requires the following information:

(a) semi-annual collected tons of hauled solid waste; and

(b) semi-annual tons of hauled recyclables; and

(c) semi-annual tons of hauled compostables.

Source: 1992 Code Section 12-3-83; Ord. 031204-14; Ord. 031211-11; Ord. 20101104-018.

§ 15-6-45 DRIVERS.

(A) A licensee shall employ drivers possessing a valid Texas Department of Motor Vehicles license to drive its solid waste collection vehicles.

(B) A driver must have in effect all motor vehicle operators' licenses required by the state.

Source: 1992 Code Section 12-3-45; Ord. 031204-14; Ord. 031211-11.

§ 15-6-46 NOTIFICATION OF CHANGE OF ADDRESS OR OWNERSHIP.

A licensee shall provide written notice to the director within 60 days of a change in:

- (1) the address or telephone number of the private solid waste collection service; or
- (2) the form of the business or the executive officers of the private solid waste collection service;
or
- (3) the name and address of the person designated to receive notices described in this article.

Source: Ord. 20090312-014.

§ 15-6-47 HAZARDOUS WASTE MATERIAL.

A person providing private solid waste collection service within the city shall comply with all city ordinances and state and federal laws regulating the handling, disposal, and transportation of hazardous waste materials.

Source: Ord. 20090312-014.

Division 2. Licensing.

§ 15-6-51 LICENSE REQUIRED.

- (A) To operate a private collection service, a person must obtain a license.
- (B) An applicant for an initial license or a renewal license must file an application with the director on a form and in the manner prescribed by the director.
- (C) A license expires at midnight on December 31 of the year in which it is issued.
- (D) A license is not transferable.

Source: 1992 Code Section 12-3-81(A) through (C); Ord. 031204-14; Ord. 031211-11.

§ 15-6-52 LICENSE PREREQUISITES.

The director may not issue an initial or renewal license under this article to an applicant unless the applicant includes with the application:

- (1) annual vehicle inspection certification as required in Section 15-6-42;
- (2) bi-annual tonnage reporting as required in Section 15-6-44;
- (3) a certificate of insurance that conforms to Section 15-6-53 (*Insurance*); and
- (4) the fee required under this article.

Source: 1992 Code Sections 12-3-82(A) and (B)(3) and (4); Ord. 031204-14; Ord. 031211-11.

§ 15-6-53 INSURANCE.

(A) An applicant for a license under this article must file with the director a certificate of general and commercial auto liability insurance, executed by a company authorized to do business in the state and performable in Travis County.

(B) The insurance shall insure the general public against loss or damage that may result to any person or property from the operation of the private collection service or from a vehicle or equipment operated by the service.

(C) The insurance must have minimum limits of \$250,000 per individual and \$500,000 per occurrence for bodily injury and \$100,000 for property damage or \$600,000 on a combined single limit basis.

(D) The applicant must also include a statement from the applicant's insurance company that the insurer will furnish to the City written notice of its intention to cancel a policy at least 30 days before the liability of the insurer expires.

Source: 1992 Code Sections 12-3-81(A) and 12-3-82(B)(1) and (2); Ord. 031204-14; Ord. 031211-11.

§ 15-6-54 DECAL.

(A) The director shall issue a decal to a licensee for each refuse collection vehicle included in the license and each additional vehicle approved by the director under Section [15-6-42](#).

(B) A licensee shall display the decal on the driver side door of the vehicle.

Source: 1992 Code Sections 12-3-82(A) through (C) and 12-3-62(C); Ord. 031204-14; Ord. 031211-11; Ord. 20090312-014.

§ 15-6-55 TEMPORARY DECAL FOR NEW AND REPLACEMENT VEHICLES.

(A) A licensee must obtain a temporary decal for a vehicle that is temporarily substituted for a vehicle subject to the license.

(B) A licensee must obtain a temporary decal for a new vehicle placed in service more than 30 days before the end of the calendar year.

(C) The director may exempt vehicles from decal requirements if placed into temporary service due to response to a local or natural emergency.

(B) A temporary decal is valid for not more than 30 days after the date the licensee submits to the director a signed statement that the vehicle subject to the license is out of service for maintenance or repair.

(C) The requirements of Sections 15-6-52 (*License Prerequisites*), 15-6-44 (*Reporting Requirements*), and 15-6-45 (*Drivers*) apply to an applicant for a temporary decal.

(D) The director shall issue a temporary decal to an applicant who complies with this section.

Source: 1992 Code Section 12-3-8(D); Ord. 031204-14; Ord. 031211-11.

§ 15-6-56 LICENSE FEES.

(A) The department shall charge a licensee an annual operation fee set by the city council. The department shall calculate the fee based on the number of vehicles used in the private collection service's operation. The department shall prorate the fee charged for a vehicle that is added to the service's operation during the calendar year.

(B) The department may not assess an additional fee for a vehicle that replaces a vehicle permitted during the same permit year.

(C) A licensee shall pay the bi-annual operating fee, on or before the first day of February and August of each year.

(D) The department shall charge a licensee a container fee set by the city council. The department shall calculate the fee based on the number of containers in service and the number of days a container is in service.

(E) A licensee shall pay the container fee bi-annually. A licensee shall pay the accrued container fee before the first day of February and August of each year.

Source: 1992 Code Sections 12-3-85(A) through (D); Ord. 031204-14; Ord. 031211-11.

§ 15-6-57 AUDIT.

(A) At the department's request, a licensee shall provide the department access to its container and vehicle records for audit purposes annually.

(B) City personnel may not copy or remove from the licensee's premises:

- (1) a customer list;
- (2) route information;
- (3) price information; or
- (4) other confidential business information.

Source: 1992 Code Section 12-3-8(E); Ord. 031204-14; Ord. 031211-11.

§ 15-6-58 LICENSE REVOCATION.

The city manager may revoke a license issued under this article if the licensee:

- (1) fails to timely pay a fee or file a report required under this article; or
- (2) fails to comply with this article.

Source: 1992 Code Section 12-3-86; Ord. 031204-14; Ord. 031211-11.

§ 15-6-59 APPEAL.

(A) A person may appeal to the the director regarding the follows actions:

- (1) deny a license;
- (2) revoke a license; or

(3) refuse to renew a license.

(B) An aggrieved person must file an appeal with the director not later than the 30th day after the decision is rendered. The person must include a written statement of the decision being appealed and the specific grounds for the appeal.

(C) Not later than the 30th day after a person files an appeal with the director's office, the director shall schedule a meeting to consider the appeal.

(D) The director may sustain, reverse, or modify the action appealed.

(E) A second and final appeal may be filed with the City Manager not later than 30 days from the ruling of the director. The City Manager response shall be the final ruling on the appealed matter.

Source: 1992 Code Section 12-3-87; Ord. 031204-14; Ord. 031211-11.

§ 15-6-59 ENFORCEMENT

A vehicle hauling solid waste and not licensed under this article shall not be permitted to collect and haul solid waste, recyclables, or organics from any site within the City. Enforcement and Penalties regarding this article are itemized in Section 15 Article 7.

The Director shall establish an enforcement program that includes field surveillance, hauling sites, hauler education, contractor education, public education, and periodic inspections of hauling vehicles.

Source: 1992 Code Section 12-3-86; Ord. 031204-14; Ord. 031211-11.

ARTICLE 7. ENFORCEMENT AND PENALTIES.

§ 15-6-121 NOTICE.

Notice required under this Article shall be given by certified or registered mail, return receipt requested, and shall be prima facie evidence that the recipient received notice.

Source: Ord. 20090312-014.

§ 15-6-122 INVESTIGATIONS.

The City may conduct investigations into the operations of private solid waste collection services operating in the city to determine whether the services comply with this chapter and other applicable laws.

Source: Ord. 20090312-014; Ord. 20101104-018.

§ 15-6-123 ENFORCEMENT.

The City shall enforce this chapter and rules adopted under this chapter.

Source: Ord. 20090312-014; Ord. 20101104-018.

§ 15-6-124 CITATION.

(A) An authorized person may issue a citation to a person the issuer reasonably believes has engaged in conduct that violates this chapter.

(B) A citation issued under this section must be on a form prescribed by the municipal court clerk that includes space for the following information, if known, to be indicated, as applicable:

- (1) the name and address of the person cited;
- (2) the type and number of a license issued to the person under this chapter, if any;
- (3) the offense for which the person is charged;
- (4) the date, time, and location of the offense;
- (5) the state license plate number of the vehicle;
- (6) the appearance date;
- (7) a statement ordering the person receiving the citation to respond to the citation at municipal court on or before the appearance date indicated on the citation;
- (8) a statement of the person's promise to respond to the citation by the appearance date indicated on the citation, together with a place for the person cited to provide the person's signature; and
- (9) other information as determined by the director.

(C) The enforcement officer shall retain the original of the citation for filing in Municipal Court, shall request the signature of the person accepting receipt, and provide a copy of the citation to that person. If the person refuses to sign or receive the citation or is not present to receive the citation, the enforcement officer shall:

- (1) leave a copy of the citation on the vehicle in a prominent place; or
- (2) mail a copy of the citation, as applicable, to:
 - (a) the person cited;
 - (b) the licensee under this chapter;
 - (c) the registered owner of the vehicle; or
 - (d) the holder under whose authority the vehicle is operated.

Source: Ord. 20090312-014; Ord. 20101104-018.

§ 15-6-125 DUTY TO RESPOND TO CITATION.

(A) On or before the appearance date indicated on the citation, a person cited under this chapter shall submit a plea to each charge indicated on the citation. The person may enter a plea of guilty, not guilty, or no contest. The plea must be submitted to the municipal court clerk by mail, in person, or by other method acceptable to the municipal court.

(B) A person may enter a plea of guilty or no contest to a charge on a citation issued under this chapter by paying to the municipal court the fine for and any court costs associated with the charge.

Source: Ord. 20090312-014.

§ 15-6-126 COMPLIANCE REQUIRED.

(A) A person commits an offense if the person performs an act prohibited by this chapter or fails to perform an act required by this chapter. Each instance of a violation of this chapter is a separate offense.

(B) A person commits an offense if the person has been issued a citation under this chapter and the person fails to enter a plea to a charge indicated on the citation on or before the appearance date indicated on the citation.

(C) A person commits an offense if the person intentionally harasses, threatens, interferes with, or gives a false or fictitious name, residence address, license, license number, vehicle registration, or date of birth to an enforcement officer at the time the enforcement officer is issuing the person a citation under this chapter.

Source: Ord. 20090312-014.

§ 15-6-127 CULPABLE MENTAL STATE.

(A) Except as otherwise specifically required in this chapter, proof of a culpable mental state is not required for a conviction of an offense under this chapter for a fine under \$500.00.

(B) Proof of a culpable mental state is required for a conviction of an offense under this chapter for a fine of \$501.00 to \$2000.00.

Source: Ord. 20090312-014.

§ 15-6-128 PENALTIES FOR VIOLATIONS.

(A) A person who violates a provision of this chapter, or who fails to perform a duty required of the person under this chapter, commits an offense. A person is guilty of a separate offense for each day or part of a day during which a violation is committed, continued, or permitted.

(B) An offense under this chapter is punishable by a fine of not more than \$2,000 and, upon a first conviction, not less than \$100.

(C) The minimum fine established in Subsection (B) shall be doubled for the second conviction of the same offense within any 24-month period and trebled for the third and subsequent convictions of the same offense within any 24-month period. At no time shall the minimum fine exceed the maximum fine established in Subsection (B).

(D) In addition to being subject to criminal enforcement and penalties as provided in Subsections (A), (B), and (C) of this section, a licensee that violates or causes or permits the violation of any of the provisions of this chapter commits a civil offense and is civilly liable to the city for an amount not to exceed \$2,000 for each violation. A licensee is liable for a separate violation for each day or part of a day during which a violation is committed, continued, or permitted.

(E) In addition to being subject to civil and criminal enforcement and penalties for violations of this chapter, in any instance where a person and/or licensee's violation of this chapter creates or exacerbates an adverse public health or safety condition related to wet or dry solid waste material accumulation, release, or dispersal, the city may immediately abate the conditions in question without notice and charge the person and/or licensee for any and all costs and/or fees incurred by the city or any entity acting on its behalf for the abatement, cleaning, removal, and/or remediation of any location adversely affected by the violation of this chapter by the person and/or licensee.

(F) The remedies provided in this chapter are cumulative and in addition to any and all other remedies available at law or in equity under applicable federal, state, and local law.

Source: Ord. 20090312-014.