

Chapter 39

SOLID WASTE AND LITTER CONTROL*

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ARTICLE I. IN GENERAL

Sec. 39-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means a public right-of-way that is used only for secondary access to individual properties that have their primary access from an adjacent public street or an approved common or compensating open space or courtyard that has direct access to a public street.

Automated collection service means the collection of garbage or trash with the use of a standard automated side-loader truck. The term also includes semi-automated collection service authorized by the director pursuant to section 39-62(d) of this Code.

Automated service container means a city-issued rolling, molded plastic container, equipped with a lid, capable of holding not more than 90 gallons, and designed to be collected by means of a garbage collection vehicle designed to be operated by a single person without the necessity of leaving the cab of the truck.

Basic garbage collection service means automated collection service and other basic collection services.

Biodegradable bag means a transparent disposable bag made of plastic film or any other synthetic or natural organic material that has sufficient strength and quality to securely contain a capacity of not more than 35 gallons and meets the American Society for Testing & Materials (ASTM) D6400-04 Standard Test Method for Compostable Plastics. The bags must be approved by the director and bear the city's seal.

Bulk container means any container used for the collection and/or disposal of solid waste that is designated and intended:

- a. To be transported from the premises where it is used by mechanical means with its contents to the dumpsite; or
- b. To be emptied by mechanical means upon the premises where it is used into a waste transport vehicle.

Without limitation, the term includes the 'dumpster' type containers that are commonly used in multifamily residential, commercial, industrial and public locations. Provided, that the term shall not include the automated service containers

***Cross references**—Duty of automobile wreckers to remove glass, debris, etc., from scene of accident, § 8-113; deposit of waste or garbage at airports, § 9-67; removal of trash deposited on streets, etc., after moving of buildings, § 10-73; clean up after demolition or removal of structures, § 10-356 et seq.; garbage and refuse in restaurants, etc., § 20-21, item 20; health generally, Ch. 21; litter at Lake Houston, § 23-6; garbage and refuse receptacles at piers at Lake Houston, § 23-37; solid waste handling and disposal in manufactured home parks, §§ 29-99, 29-113 et seq.; moving vehicles which throw or drop mud or clay on streets, § 40-22; vehicles transporting earth material on streets and alleys, § 40-168 et seq.; placing trash, etc., into gutters, storm sewers, etc., § 47-34; water meter boxes to be free from rubbish, § 47-21.

that are furnished by the city and similar containers furnished and used by private collection contractors in the course of their collection business.

Bulk container service provider means the owner of the bulk container, provided that if a person other than the owner is contractually or otherwise obligated to transport the bulk container and/or its contents for disposition, then it shall mean the person providing such service.

Central business district means the area beginning at the intersection of the centerline of U.S. 59 and the centerline of I.H. 45; thence in a northeasterly and northerly direction along the centerline of I.H. 45 to its intersection with the centerline of I.H. 10; thence in an easterly direction along the centerline of I.H. 10 to its intersection with the centerline of U.S. 59; thence in a southwesterly direction along the centerline of U.S. 59 to its intersection with I.H. 45, the point of beginning.

City collectors means employees of the department or private contractors of the city actively engaged in the collection of solid waste.

*Curblin*e means an imaginary line drawn along the edge of the pavement on either side of a public street; the curblin shall include the area three feet beyond said imaginary line on the residence side of the line.

Department means the department of solid waste management.

Director means the director of the department of solid waste management or the director's duly authorized representative.

Extra capacity service means the collection of garbage or trash in automated service containers or one-way containers pursuant to section 39-62(a) of this Code.

Garbage means abandoned, discarded or unwanted putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food, including such materials from food markets, food storage facilities, food handling, and the sale of produce and other food products.

Houston Downtown Management District means the district created by Subchapter A of Chapter 376 of the Texas Local Government Code.

Junk means any rubbish or trash generated upon the premises of a residential unit and of such size or weight that it cannot be containerized pursuant to this chapter, including, but not limited to, major appliances.

Litter means uncontrolled and improperly containerized garbage or trash on public or private property.

One-way container means a disposable bag made of plastic film or of any other synthetic or natural organic material that has sufficient strength and quality to securely contain a capacity of not more than 35 gallons.

Other basic collection services means yard waste collection, junk collection, tree waste collection, and dead animal collection.

Public street means the entire width between property lines of any road, street, way, alley, bridge, or other similar thoroughfare, not privately owned or controlled, when any part thereof is open to the public for vehicular traffic, which is the responsibility of the city or other similar public agency to maintain.

Recyclable material means material that has been recovered or diverted from the nonhazardous waste stream for purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recyclable material is not solid waste; however, recyclable material may become rubbish at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be rubbish with respect only to the party actually abandoning or disposing of the material.

Residential unit means any occupied structure within the city limits of the city devoted to single-family residential use. Residential unit shall include, but not be limited to, houses, duplexes, condominiums, townhouses, townhomes, trailer homes, manufactured homes and patio homes. The term shall also include

each apartment in an apartment project or community containing eight or fewer individual units. Residential unit shall not include any unit in any hotel, motel, boarding house, or other similar rental unit.

Rubbish or trash means abandoned, discarded or unwanted nonputrescible solid waste materials consisting of both combustible and noncombustible waste materials; combustible rubbish or trash shall include feathers, paper, rags, cartons, boxes (flattened and tied), wood, excelsior, nonmetallic furniture, rubber, plastics, yard trimmings, shrubs, leaves, and similar materials; noncombustible rubbish or trash shall include glass, crockery, tin cans, aluminum cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit); provided that, rubbish or trash shall not include bulk quantities of building materials or major automotive components, and the city shall not be required to pick up such materials.

Sponsorship agreement means a reimbursement agreement between the city and a civic or homeowners' association or other qualified entity for the purpose of partially offsetting the cost incurred by the association or qualifying entity in assuming the responsibility for all basic garbage collection service to residential units eligible for such service pursuant to this chapter 39 in certain defined areas of the city.

Solid waste means "municipal solid waste" as that term is defined in the Texas Solid Waste Disposal Act; waste resulting from the construction or demolition of any structure; and any other type of solid waste as defined in Section 330.2 of the Texas Administrative Code and any amendments thereto.

Standard automated side-loader truck means a truck manufactured or configured to permit the driver to collect the garbage and rubbish from automated service containers, placed at the curbline, by means of a mechanical device operated by the driver without the necessity of leaving the cab of the truck.

Trash. See rubbish or trash.

Tree waste means tree limbs, branches, and trunks greater than three inches in diameter.

Yard waste means grass, shrubs, or other plant clippings, leaves, and tree limbs. (Code 1968, § 20-1; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 1, 10-12-88; Ord. No. 89-1525, § 1, 10-25-89; Ord. No. 98-115, §§ 3-5, 2-11-98; Ord. No. 04-1060, § 1, 10-13-04; Ord. No. 07-575, § 2, 5-9-07; Ord. No. 09-823, §§ 2-4, 9-2-09)

Sec. 39-2. Disturbing or removing contents of containers.

(a) It is unlawful for any person to intentionally, knowingly or recklessly handle, scavenge from, disturb, or remove any contents of any bin, bag, or other container that has been placed for collection of garbage, trash or recyclable materials at the designated location for pickup by the department, or for pickup by any other public or private collection service.

(b) It is a defense to prosecution under this section that the accused is the person who placed or caused the bin, bag or container to be placed for collection or that the accused is an agent or employee of the city.

(Code 1968, § 20-2; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 1, 10-12-88; Ord. No. 95-406, § 1, 4-12-95; Ord. No. 02-504, § 2, 6-12-02; Ord. No. 09-823, § 5, 9-2-09)

Sec. 39-3. Littering generally.

With the exception of containers and items placed for pickup in conformity with the conditions for pick up and the times authorized pursuant to this chapter, no provision contained in this chapter shall be construed as constituting the permission of the city for the deposit of solid waste upon sidewalks, public streets, curbs or other public places of the city. Any deposit which does not conform in all respects with the provisions set forth in this chapter shall constitute an unlawful deposit of litter which shall be punishable as provided by law.

(Code 1968, § 20-3; Ord. No. 81-1524, § 1, 8-11-81)

Sec. 39-4. Penalties; enforcement.

(a) When in this chapter an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this chapter the doing of any act is required or the failure to do any act is declared to be unlawful and no specific penalty is provided therefor, the violation of any such provision shall be punishable upon first conviction by a fine of not less than \$50.00 nor more than \$2,000.00 and upon each subsequent conviction by a fine of not less than \$250.00 nor more than \$2,000.00. Each day that any violation continues shall be punishable as a separate offense. To the extent that any conduct in violation of this chapter also constitutes a violation of state penal laws, then it shall be punishable as provided in the applicable state law.

(b) The remedies in this chapter are not exclusive. The city attorney is authorized to file and prosecute any other action authorized at law or in equity to abate any unsanitary condition or unlawful disposal of waste.
(Ord. No. 95-406, § 2, 4-12-95)

Sec. 39-5. Remedies cumulative.

This chapter is cumulative of other laws. To the extent of inconsistency between the provisions of this chapter and any other ordinance of the city, the more restrictive shall apply.
(Ord. No. 95-406, § 2, 4-12-95)

Secs. 39-6—39-15. Reserved.

ARTICLE II. DEPARTMENT OF SOLID WASTE MANAGEMENT*

Sec. 39-16. Created.

There is hereby created a department of the city to be designated the department of solid waste management.
(Ord. No. 93-514, § 62, 5-5-93)

***Editor's note**—Ord. No. 93-514, § 62, adopted May 5, 1993, amended the Code by adding a new Art. II, §§ 39-16—39-18, to read as herein set out.

Sec. 39-17. Director.

There is hereby created the office of the director of solid waste management. The director shall be the head of the department and shall be appointed by the mayor and confirmed by the city council.
(Ord. No. 93-514, § 62, 5-5-93)

Sec. 39-18. Duties.

The department and the employees assigned to the department shall:

- (1) Supervise and be responsible for the collection, transportation and disposal of solid waste.
- (2) Carry out the policies of the mayor and city council in the overall planning effort to develop a reliable and efficient method for solid waste disposal.
- (3) Have such other duties and responsibilities as may be assigned by the mayor and city council.

(Ord. No. 93-514, § 62, 5-5-93)

Secs. 39-19—39-29. Reserved.

ARTICLE III. HOUSTON CLEAN CITY COMMISSION†

Sec. 39-30. Created; purpose.

There is hereby established the Houston Clean City Commission to direct and oversee a comprehensive litter control program for the purpose of reducing and controlling to an acceptable level the concentration of litter in the city and to bring about a long-term improvement in the attitudes and trash handling habits of citizens.
(Code 1968, § 2-274.1; Ord. No. 77-2294, § 1, 11-19-77; Ord. No. 88-1643, § 2, 10-12-88)

Sec. 39-31. Litter defined.

As used in this article, the term "litter" shall mean uncontrolled and improperly containerized garbage or trash on public or private property.
(Code 1968, § 2-275; Ord. No. 77-2294, § 1, 11-19-77; Ord. No. 88-1643, § 2, 10-12-88; Ord. No. 09-823, § 6, 9-2-09)

†**Cross reference**—Boards, commissions, authorities, etc., generally, § 2-316 et seq.

Sec. 39-32. Composition; appointment of members.

The Houston Clean City Commission shall consist of not more than 50 members to be appointed by the mayor and confirmed by city council. Members shall be community leaders representing the civic, business, and governmental segments of the city. Nine members shall be designated as district members for positions lettered A through I and shall be residents of the city single-member council district which bears the letter corresponding to the position to which the district member is appointed. In the event a district member's place of residence is redistricted from one council district to another during the term of the member's office, that member shall not be disqualified but shall serve the remainder of the term and until a successor is appointed and confirmed. Up to 41 members may be designated as members-at-large for positions numbered 1 through 41, as required. One at-large-member shall be the director of the solid waste management department or his designee; one shall be the director of the health and human services department or his designee; and one shall be the director of the public works and engineering department or his designee. Among the remaining members-at-large, the mayor may appoint and city council may confirm up to 11 persons who do not reside within the city to serve as nonresident members-at-large.

(Code 1968, § 2-276; Ord. No. 77-2294, § 1, 11-19-77; Ord. No. 81-2241, § 1, 11-10-81; Ord. No. 83-1126, § 1, 7-19-83; Ord. No. 88-1643, § 2, 10-12-88; Ord. No. 90-635, § 92, 5-23-90; Ord. No. 93-514, § 63, 5-5-93; Ord. No. 96-325, § 1, 4-3-96; Ord. No. 96-1171, § 1, 11-6-96; Ord. No. 06-287, § 1, 3-29-06)

Note—See editor's note at Art. III.

Sec. 39-33. Terms of members.

The members of the Houston Clean City Commission shall serve the following terms:

- (1) The terms of office for members-at-large who hold even-numbered positions shall expire on February first of even-numbered years.

- (2) The terms of office for members-at-large who hold odd-numbered positions shall expire on February first of odd-numbered years.
- (3) The terms of office for district members shall expire on February first of the second year following the year of their appointment.
- (4) Members whose terms have expired shall continue to serve until their successors are appointed and confirmed or their positions are eliminated due to a reduction in the size of the Commission.
- (5) The terms of office for the three department directors shall coincide with the tenure of their appointments as director of the solid waste management department, as director of the health and human services department and as director of the public works and engineering department, respectively.

(Code 1968, § 2-277; Ord. No. 77-2294, § 1, 11-19-77; Ord. No. 77-2560, § 1, 12-13-77; Ord. No. 81-2241, § 1, 11-10-81; Ord. No. 88-1643, § 2, 10-12-88; Ord. No. 90-635, § 93, 5-23-90; Ord. No. 93-514, § 64, 5-5-93; Ord. No. 96-325, § 2, 4-3-96; Ord. No. 06-287, § 2, 3-29-06)

Note—See editor's note at Art. III.

Sec. 39-34. Compensation.

Members of the Houston Clean City Commission shall serve without compensation from the city or any firm, trust, donation or legacy to or on behalf of the city; provided, however, that a member of the commission, or the firm, company or corporation with whom the commissioner is associated, shall not be precluded from receiving compensation from the city under any contract for services rendered which have no relation to the commissioner's duties as a commissioner of the Houston Clean City Commission and, provided further the commission may hire or secure the services of a full-time program director to administer the clean city program.

(Code 1968, § 2-278; Ord. No. 77-2294, § 1, 11-9-77)

Sec. 39-35. Chairman.

The Houston Clean City Commission shall organize by electing one of its members as chairman; such chairman shall hold office for one year or until his successor has been elected and qualified.

(Code 1968, § 2-279; Ord. No. 77-2294, § 1, 11-9-77)

Sec. 39-36. Adoption of administrative procedures.

The Houston Clean City Commission may adopt such administrative procedures as are necessary to accomplish the purposes set out in this article.

(Code 1968, § 2-280; Ord. No. 77-2294, § 1, 11-9-77)

Sec. 39-37. Reports.

The Houston Clean City Commission shall, each quarter, during the months of January, April, July and October submit a written report to the mayor and city council summarizing the status of the clean city program.

(Code 1968, § 2-281; Ord. No. 77-2294, § 1, 11-9-77)

Sec. 39-38. Consultation with city officers and departments.

The director and other city officers and staffs of city departments may consult with and advise the Houston Clean City Commission from time to time on matters coming within the scope of this article and the commission may consult with and advise such city officers and personnel of such departments.

(Code 1968, § 2-282; Ord. No. 77-2294, § 1, 11-9-77)

Sec. 39-39. Solicitation of funds.

The Houston Clean City Commission shall have the authority to solicit funds and donations to carry out the purposes for which it is established.

(Code 1968, § 2-283; Ord. No. 77-2294, § 1, 11-9-77)

Secs. 39-40—39-47. Reserved.**ARTICLE IV. COLLECTION SERVICES****DIVISION 1. GENERALLY****Sec. 39-48. Limited to residential units within city.**

~~Except as otherwise provided in this article,~~ the city shall provide garbage and rubbish collection service only to eligible residential units. This section shall not prohibit separate contracts approved by the city council for additional service outside the terms of this article. The city shall provide garbage and rubbish collection service only within the city limits.

(Code 1968, § 20-10; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 09-823, § 7, 9-2-09)

Sec. 39-49. Collection from nonresidential units.

(a) Nonresidential units are eligible for automated collection service and extra capacity service only, and only if qualified for such service under the terms of this section.

(b) Any nonresidential unit seeking city automated collection service or extra capacity service shall apply for same in writing to the director on forms provided by the director. The director shall then grant such service, provided that the director finds in writing that such nonresidential unit meets all of the following requirements:

- (1) The cost to the city of providing service to such nonresidential unit is not unduly prohibitive.
- (2) The nonresidential unit is located immediately adjacent to existing established residential routes which may be easily extended to provide the nonresidential unit with service.
- (3) The city has the capability in terms of personnel and equipment to provide the nonresidential unit with service.
- (4) Providing the nonresidential unit with the service will best serve the public convenience and necessity of the city.
- (5) The director shall be given written permission by the owner, lessee or authorized

agent of any publicly or privately owned property to enter the premises and make inspections to determine whether or not garbage and rubbish is being properly stored, collected, removed and disposed of as required by the provisions of this chapter. If it is found that this chapter is being violated, appropriate and timely action shall be taken to ensure full compliance with same.

- (6) The nonresidential unit is not a medically-related facility, such as, but not limited to, hospitals, medical centers, health clinics, dental labs, medical labs, mortuaries and veterinary hospitals.

(c) Any nonresidential unit approved for city automated collection service or extra capacity service shall comply with all other appropriate terms and provisions of this chapter and, where appropriate, pay extra capacity service fees, as if the nonresidential unit were a residential unit.

(d) On each day that automated collection service is provided on the route for the nonresidential unit, city collectors will pick up the contents of not more than three automated service containers and any occasional one-way containers to which an extra capacity service tag has been affixed.

(e) Any nonresidential unit denied automated collection service or extra capacity service by the director under this section may appeal the director's decision to city council pursuant to Rule 12 of the Council Rules of Procedure by filing notice of appeal with the city secretary, with a copy to the director, within 30 days of receipt of the director's written notice of denial of service.

(f) There is hereby imposed a monthly fee of \$22.22 per calendar month or any portion thereof for automated collection service under this section. The fee for each additional automated service container or occasional extra capacity service tag requested shall be those set forth in section 39-62(a) of this Code and shall be paid annually in advance in accordance with billing procedures established by the director; provided that upon presentation of a city water account number and advance payment of the first monthly extra capacity service fee for each additional automated

service container requested, a water customer of the city desiring extra capacity service may be billed monthly pursuant to section 39-68 of this Code. City collectors are not authorized to receive payment of any fee. No extra capacity service shall be rendered to any person who has failed to make payment in advance.

(Code 1968, § 20-11; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 3, 10-12-88; Ord. No. 91-1272, § 1, 8-28-91; Ord. No. 98-115, § 6, 2-11-98; Ord. No. 02-525, § 2, 6-19-02; Ord. No. 09-823, § 7, 9-2-09)

Sec. 39-50. Materials to be picked up by department.

(a) The director shall promulgate rules that establish the items that will be picked up by city collectors. The items will be limited to those that may be accepted at a Type I municipal solid waste site in accordance with applicable state and federal laws and regulations and the terms of the city's contracts with the site operators. For junk collection, items will be limited to those that may be accepted at a type IV municipal solid waste site in accordance with applicable state and federal laws and regulations and the terms of the city's contracts with the site operators. For tree waste, yard waste, and recyclable material, the items will be accepted based upon applicable laws and regulations and the city's contracts with purchasers of items to be recycled. The director may impose further restrictions upon items or quantities of items to be collected based upon the safety of city collectors and the capability and capacity of departmental collection equipment. The director shall similarly establish rules for neighborhood depository and adopt-a-container services.

(b) Copies of the rules shall be maintained in the director's office and the city secretary's office. Additionally, copies shall be posted at neighborhood depository sites and adopt-a-container sites and made available to residents upon request.

(c) City collectors shall not accept any materials that are not authorized for collection under the rules. To the extent that any items placed for collection are mixed so as to include both autho-

rized and unauthorized items, city collectors shall not be obliged to sort the materials and may refuse the entire lot.

(d) Except as provided in section 39-49 of this Code, the collection services shall be limited to the collection and acceptance of garbage or rubbish generated by residential users in connection with activities that are incidental to their use of their property for residential purposes and waste generated upon a vacant residential lot that is generated in connection with the maintenance of that vacant residential lot. The department shall not collect or accept any other waste. It shall be unlawful for any person to place items for collection by city collectors at the curblin of any property except as authorized herein.

(e) The department shall not collect or accept bulky items, such as construction debris or debris from the trimming or removal of trees, unless generated by work performed by the residents of the property upon which the waste was generated, rather than by contractors retained to do the work. It is the duty of contractors who are performing work at residential units to which the department renders service to remove and lawfully dispose of construction debris, tree waste and similar bulky items or to cause the materials to be removed by private collectors, rather than to leave the materials upon the property for collection by city collectors.
(Ord. No. 95-406, § 3, 4-12-95; Ord. No. 09-823, § 7, 9-2-09)

Secs. 39-51—39-60. Reserved.

DIVISION 2. CONTAINERS, ETC.

Sec. 39-61. Defective, overloaded, or nonconforming containers.

(a) No person shall use or cause to be used or place or cause to be placed for collection by city or private collectors any garbage or rubbish container that:

- (1) Is not of such construction as to have a lid or other closure means that will effectively prevent the spillage or airborne loss of its contents and the entry of vectors or elements of nature; or

- (2) Is overloaded so that the lid will not fit securely thereon; or
- (3) Is deteriorated to the extent of endangering collectors or to the extent that the lid will not fit securely or the contents are otherwise not effectively contained therein; or
- (4) For yard waste bags, are not securely bound on the open end; or
- (5) The combined weight of the garbage, rubbish and container exceeds 50 pounds; or
- (6) Contains pet feces, unless such feces are wrapped separately and securely to avoid spillage, and placed so that its odor is not offensive to collection crews or the general public.

(b) City collectors shall not be obligated to service any garbage or rubbish container that does not contain garbage or rubbish as herein defined or that is not placed or prepared as set forth in this chapter.

(Code 1968, § 20-15; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 4, 10-12-88; Ord. No. 09-823, § 8, 9-2-09)

Sec. 39-62. General specifications.

(a) The following specifications and service conditions shall apply to residential units serviced by city collectors:

- (1) The department shall loan, without charge, one automated service container to the resident(s) of each residential unit serviced by city collectors. Upon request, the resident(s) of a residential unit shall be provided up to two additional automated service containers upon advance payment by money order or cashiers check of a monthly extra capacity service fee of \$15.15 per automated service container. A city water customer who desires to contract for billing of the extra capacity service fee through the customer's city water account may provide the director the customer's city water account number and advance payment of the first monthly extra capacity service fee for each additional automated service container requested. There-

after, a monthly charge for each additional container will be billed through the customer's water account. Each additional automated service container shall bear an extra capacity sticker containing serial or other identification numbers and shall be issued by the department for a minimum service period of 12 months.

- (2) The residents of a residential unit serviced by city collectors may purchase tags for occasional extra capacity service upon request. Such tags shall be placed on one-way containers for collection. A fee of \$2.00 per tag, with a minimum purchase of five tags, shall be paid to the department or its agent in advance by money order or cashier's check. The director is authorized to impose an additional service fee not to exceed \$5.00 per purchase for occasional extra capacity service tags processed by the department.

(b) Operators of private collection services may establish different specifications as to the size, weight and construction of containers which they will pick up, provided that the specifications conform to section 39-61 of this Code.

(c) For purposes of conducting pilot programs to evaluate new solid waste disposal and recycling technologies, the director may establish different specifications as to the size, weight, and construction of containers that the city will pick up in certain areas of the city, provided that the specifications conform to section 39-61 of this Code.

(d) The director may establish service routes and/or designated areas of the city which receive semi-automated collection service such as on one-way streets which have residential units on the left hand side of the street and therefore cannot be served by the city's standard automated sideloader trucks.

(e) In connection with pilot programs, the department may loan automated service containers, recycling containers or related equipment to residents for their use in placing garbage, trash and recyclable material for collection by the department.

(f) All collection equipment provided by the city shall remain the property of the city, and it shall be the responsibility of each person who receives that equipment to exercise reasonable care with respect to the maintenance and use of the equipment. Broken, damaged, lost or stolen rolling automated collection containers shall be repaired or replaced by the department in accordance with rules established by the director, which shall be established and promulgated in the same manner provided by section 39-50 of this Code.

(g) It shall also be the duty of each person who receives automated service containers and other equipment to store the equipment in a secure place where it will not be visible to a person standing in the right-of-way of any public street adjacent to the property where the equipment is used, except while placed for collection in accordance with this chapter. It is a defense to prosecution under this subsection that the person's property is so configured that no location exists for storage of the equipment in a place where it is not visible to a person standing in the right-of-way of a public street adjacent to the property.

(Code 1968, § 20-16; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 4, 10-12-88; Ord. No. 93-872, § 1, 7-14-93; Ord. No. 95-406, §§ 4, 5, 4-12-95; Ord. No. 98-115, § 7, 2-11-98; Ord. No. 02-525, § 3, 6-19-02; Ord. No. 09-823, § 8, 9-2-09)

Sec. 39-63. Eligibility for basic garbage collection service.

The following residential units shall be eligible for basic garbage collection service:

- (1) Except as provided in item (2) of this section, residential units abutting a public street;
- (2) All residential units within a development or subdivision containing private streets, permanent access easements or shared driveways shall be eligible to receive automated garbage collection service only, provided at least one residential unit located within such development or subdivision is adjacent to or abuts at least one public street and has direct access to that public street, and
 - a. The development or subdivision contains 25 residential units or less; and

b. Each automated service container or one-way container is placed at the curblin on the public street adjacent to the development or subdivision or, if the development or subdivision is adjacent to more than one public street, on the street specified by the director; and

c. The adjacent public street(s) contains sufficient non-driveway frontage to permit the placement of automated service containers for all residential units within the development or subdivision when spaced on five foot centers.

(Ord. No. 07-575, § 3, 5-9-07; Ord. No. 09-823, §§ 9, 10, 9-2-09)

Note—Formerly § 39-65.

Sec. 39-64. Sponsorship agreements.

(a) The city shall enter into a sponsorship agreement, as defined in section 39-1 of this Code, only with a civic or homeowners association or other qualified entity that assumes responsibility for all basic garbage collection services available to those residential units eligible for such service pursuant to this chapter that are located within the geographical area to be served, provided the association or qualified entity is authorized to bind all residential units within the geographical area covered by the sponsorship agreement. Only those sponsorship agreements that are consistent with the provisions of this section and are in a form approved by the city attorney shall be approved.

(b) Sponsorship agreements shall be approved by the director, provided that any agreement that requires payment by the city in any one year of an aggregate amount in excess of the city council approval requirement limitation amount established pursuant to article II, section 19a of the City Charter shall be approved by the city council.

(c) A sponsorship agreement shall be administered on an all or none basis and shall apply to all units in the development or community. A residential development or subdivision that is ineligible for automated collection service pursuant to this chapter shall be ineligible for a sponsorship

agreement. No residential units in any development or subdivision covered by a sponsorship agreement shall be eligible for any city collection services, and all garbage collection services shall be the responsibility of the entity that entered into the sponsorship agreement with the city. The sponsorship payment per unit is the same whether the unit is eligible for basic garbage collection service or other collection services.

(d) No reimbursement payments shall be authorized by the director or the city council except pursuant to the terms of a properly executed sponsorship agreement. Reimbursements shall be made on a monthly basis. The amount of reimbursement for each residential unit included in a sponsorship agreement may be established annually as of July 1 of each year by the city council. If the city council does not, for any reason, establish an amount by July 1 of any year, the amount of reimbursement for the following fiscal year shall be that amount which was in effect during the prior fiscal year, and such amount shall remain in effect through June 30 of the following year.

(e) All sponsorship agreements shall terminate on June 30 of each and every year and shall expire unless the director receives from the association or qualified entity, at least sixty days prior to the termination date, written notice that the association or qualified entity wishes to extend the agreement for an additional year. If any sponsorship agreement is allowed to terminate and the association or qualified entity wishes to resume the agreement, a new agreement must be executed.

(Ord. No. 07-575, § 3, 5-9-07; Ord. No. 09-823, §§ 9, 11, 9-2-09)

Note—Formerly § 39-66.

Sec. 39-65. Placement for basic garbage collection service.

(a) Except as otherwise specifically permitted in subsection (b), (c) or (f) of this section or section 39-63(2) of this chapter, basic garbage collection service shall be limited to garbage and trash prepared pursuant to this chapter placed at the curblin of a public street in front of the property upon which the garbage or trash was generated. The automated service containers shall be placed for collection in a location along the curblin that

is accessible to the city's standard automated side-loader trucks, except as provided in section 39-62(d) of this Code.

(b) The director shall determine the street on which the garbage and trash shall be placed for collection from a residential unit located on a corner lot.

(c) If vehicle parking is permitted on both sides of a narrow, one-way or dead-end public street on which residential units abut, the director may require that, on collection day:

- (1) The parking of vehicles be restricted to one side of the street;
- (2) Garbage and trash be placed for collection on only one side of the street; or
- (3) The requirements of items (1) and (2) of this subsection both be met.

(d) All items shall be contained or bundled as provided in this chapter. Basic garbage collection service shall be provided on the basis of a schedule established and promulgated by the director, which shall normally include one pickup per week for automated collection service, extra capacity service and yard waste. Basic garbage collection service shall also be limited to materials authorized under rules established by the director, as provided in section 39-50 of this Code.

(e) It shall be unlawful to place or to allow to remain any materials at the curblin for basic garbage collection service by the department prior to 6:00 p.m. of the day preceding a day designated by the director for basic garbage collection service at that location. Basic garbage collection service shall commence at 7:00 a.m. on the day designated by the director. It shall be unlawful to place or allow to remain any materials at the curblin on a designated collection day after department collection service personnel have passed the site for that day, and the department shall not have any obligation to return to collect items not present at the curblin when the department vehicle serviced the site.

(f) The director may, in lieu of collection at the curblin of a public street, authorize basic garbage collection service from the curblin of a public alley if a majority of the residents having

property abutting the alley prefer collection from the alley and if the alley meets each of the following criteria with respect to the portions of the alley that will be used by department equipment:

- (1) The alley must have a paved surface at least 16 feet in width;
- (2) The alley must have no overhang or projection lower than a height of 13 feet six inches above the pavement;
- (3) The alley must have a minimum turning radius of 35 feet at each place where the alley intersects a public street;
- (4) The alley must have no obstruction (parked vehicle, fixed object, or whatever) that would prevent, hinder or impede the free passage of department equipment for collection service; and
- (5) The director may require that all garbage and trash be placed on one side of the alley.

(Code 1968, § 20-19; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 4, 10-12-88; Ord. No. 95-406, § 6, 4-12-95; Ord. No. 98-115, § 7, 2-11-98; Ord. No. 07-575, §§ 3, 4, 5-9-07; Ord. No. 09-823, §§ 9, 12, 9-2-09)

Note—Formerly § 39-67.

Sec. 39-66. Billing.

Persons requesting extra capacity service who are not water customers of the city shall be billed for advance payment of the appropriate extra capacity collection fees for the services requested. (Ord. No. 02-525, § 4, 6-19-02; Ord. No. 07-575, § 3, 5-9-07; Ord. No. 09-823, §§ 9, 12, 9-2-09)

Note—Formerly § 39-68.

Sec. 39-67. Accounting.

(a) All extra capacity service fees collected shall be deposited in the city's general fund and recorded in a separate revenue code. All such amounts, together with all interest earned thereon, if any, shall be used solely for the purposes set forth in subsection (b) of this section.

(b) The extra capacity service fees collected pursuant to this article shall be used for the sole benefit of the city's solid waste management system.

(c) The department shall establish adequate financial and accounting controls to ensure that extra capacity solid waste collection fees are utilized solely for the purposes authorized. The records of the fund or account into which extra capacity service fees are deposited shall be open for public inspection, and copies may be purchased during ordinary business hours.

(Ord. No. 02-525, § 4, 6-19-02; Ord. No. 07-575, § 3, 5-9-07; Ord. No. 09-823, §§ 9, 12, 9-2-09)

Note—Formerly § 39-69.

Secs. 39-68—39-75. Reserved.

DIVISION 3. OTHER BASIC COLLECTION SERVICES*

Sec. 39-76. Yard waste collection

City collectors will pick up yard waste in conjunction with automated collection service if the waste is prepared and placed pursuant to this section. Any person desiring to place yard waste for collection by the city shall cause the same to be placed in biodegradable bags not exceeding 50 pounds total weight, provided that tree trimmings having a diameter of less than three inches and related materials may be securely tied in bundles not heavier than 50 pounds and not more than four feet in length nor 18 inches in diameter. No person shall place more than four bundles of tree trimmings for removal on any one day of collection. Yard waste not placed for collection in biodegradable bags or bundled properly will not be collected. Yard waste placed for collection must be a sufficient distance from automated service containers so as not to interfere with standard automated side-loader trucks. Yard waste shall not be placed in automated service containers.

(Ord. No. 09-823, § 14, 9-2-09)

***Editor's note**—Ord. No. 09-823, § 13, adopted September 2, 2009, amended the title of Art. IV, Div. 3, to read as herein set out. Formerly, said division was entitled Special City Collection Services.

Sec. 39-77. Junk and tree waste collection.

(a) Junk and tree waste shall be collected on separate days on the basis of a schedule established and promulgated by the director.

(b) Service shall be limited to materials authorized under rules established by the director as provided in section 39-50 of this Code, and no more than eight cubic yards (216 cubic feet) of material shall be collected from any one residential unit on any scheduled collection day.

(c) Service shall be limited to items that are placed at the curblin in an unobstructed location, such that automated department equipment may reach and pick up the items. Without limitation, service will not be provided if the items are obstructed by fire hydrants, trees or vegetation, parked cars or other objects that prevent the automated function of the department's equipment.

(d) It shall be unlawful to place or to allow to remain any materials at the curblin for junk or tree waste collection service prior to 6:00 p.m. of the Friday next preceding a day upon which the collection service for the site is scheduled by the director.

(e) When any property is found in violation of subsection (d) of this section, such fact shall be prima facie evidence that the current record owner or occupant of the property committed such offense. It is a defense to prosecution under subsection (d) of this section that the property owner or occupant can name and identify the person who committed the offense.

(f) All persons have an affirmative duty to comply with all provisions of this section, and it shall not be a defense to prosecution of such persons that they were acting without a culpable mental state.

(g) Reserved.
(Code 1968, § 20-25; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 4, 10-12-88; Ord. No. 95-406, § 7, 4-12-95; Ord. No. 04-1076, §§ 1, 2, 10-20-04 Ord. No. 07-575, §§ 5, 6, 5-9-07; Ord. No. 09-823, §§ 15—17, 9-2-09)

Sec. 39-78. Collection of dead animals.

(a) Small dead animals, such as dogs, cats, or other of similar size, will be picked up by the city as a special service at no charge; provided, that such special pickup must be requested by contacting the department between 8:00 a.m. and 5:00 p.m.

(b) Large dead animals, such as horses and cattle, or others of similar size, will be picked up by the city as a special service for a fee of \$90.00; provided that such special pickup must be requested by contacting the department between 8:00 a.m. and 5:00 p.m. The owner of the animal shall pay the aforesaid fee to the department in such manner as the director shall specify; provided, that the director shall not impose such fee in the case of animals of unknown ownership. In case of animals of unknown ownership, the director may require an affidavit or a signed statement to that effect from the land owner or resident.

(c) It shall be unlawful for any person to place dead animals in any garbage or trash container or receptacle. Disposal thereof may require special equipment, routing and handling which cannot be provided in conjunction with other collection services.

(d) The city shall not pick up dead animals from those locations engaged in the business of treating, handling, or disposing of animals.

(e) The city shall be responsible for the pickup of dead animals from city property and rights-of-way only.

(Code 1968, § 20-26; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 5, 10-12-88; Ord. No. 09-823, § 18, 9-2-09)

Sec. 39-79. Collection of decomposed organic products.

In cooperation with the director of the health and human services department or his designee, the city shall assist where appropriate in situations involving decomposed organic products on private property deemed detrimental to the health and safety of the general public.

(Ord. No. 88-1643, § 6, 10-12-88)

Sec. 39-80. Pickup for persons with disabilities.

The department shall provide basic garbage collection service to persons with disabilities by entering onto the private property of such persons to collect garbage and trash generated by such persons under the following conditions:

- (1) A person with a disability shall request such service, in writing;
- (2) The disability which is the basis of such request must be a disability which prevents the citizen from placing garbage and trash at the curbside for collection;
- (3) The person with a disability shall present with the request for service, documentation from an attending physician confirming the disability;
- (4) The person with a disability shall be the sole resident at the service address at which service is requested, unless all other residents at the service address qualify for service under the provisions of this section; and
- (5) No more than two automated service containers meeting the specifications of this article shall be collected on any collection day.

(Ord. No. 88-1643, § 6, 10-12-88; Ord. No. 09-823, § 19, 9-2-09)

Sec. 39-81. Adopt-a-container program.

The city may provide bulk containers for use by residents of the city. This service is intended to assist non-profit community organizations with weekend neighborhood cleanup campaigns. The bulk containers will be provided on a first-come-first-served basis, depending upon the availability of equipment. The containers will be delivered on Friday and collected on Monday. Only non-profit and civic organizations are eligible to sponsor bulk containers. Requests to the director for bulk containers must comply with the following conditions:

- (1) The request must be received in writing not less than 21 days prior to the anti-

pated cleanup date; requests must include a reschedule date in the case of inclement weather;

- (2) The request must indicate a specific location for the container to be placed by the city;
- (3) The request must specifically indicate which community group is requesting the container; and
- (4) The request must specifically name a person to be responsible for monitoring the container, and that person must sign the written request.

(Ord. No. 95-406, § 8, 4-12-95; Ord. No. 09-823, § 20, 9-2-09)

Sec. 39-82. Neighborhood depositories.

In addition to the junk and tree waste collection service, the department may operate solid waste depository sites at which junk, tree waste, and recyclable material may be deposited. No person may utilize depository sites more than four times per month. The following rules and conditions shall apply to neighborhood depositories:

- (1) Each user must provide proof of residency in a form acceptable to the director, or must show a current city property tax receipt for use of a facility as a nonresident;
- (2) Only junk, tree waste, and city approved recyclables will be accepted in accordance with rules established by the director under section 39-50 of this Code;
- (3) Salvaging or scavenging items deposited at a site or from vehicles that are waiting to make deposits at a site is unlawful; and
- (4) Trespassing on a site is prohibited, and the director shall cause each site to be posted with appropriate no trespassing signage. Only persons who are depositing waste or recyclable material at the site and department employees may be present at a site.

(Ord. No. 95-406, § 8, 4-12-95; Ord. No. 09-823, § 21, 9-2-09)

Secs. 39-83—39-94. Reserved.

ARTICLE V. LITTER CONTROL*

Sec. 39-95. Enforcement of state solid waste laws and regulations.

(a) In cooperation with the legal department, the neighborhood protection official and any other city departments having code enforcement responsibilities relating to solid waste, sanitation or litter control, the director shall conduct an effective program of the enforcement of state and local laws relating to solid waste, sanitation and litter control including, but not limited to, enforcement of the Texas Litter Abatement Act (Texas Health and Safety Code, ch. 365).

(b) The health officer may report the failure of any person to comply with the said act or regulations in writing to the legal department for the institution by the city of suits for the civil penalties and injunction remedies provided in the solid waste disposal act; provided, that the health officer may, but shall not be obligated to, attempt to secure voluntary compliance prior to referral of the complaint to the legal department. Prior to the institution of suit, the legal department shall refer the health officer's request to the city council for authorization to file suit. Such authorization may be granted by motion of the city council. Further authorization shall not be required for taking of any action which the city attorney deems necessary or desirable in connection with the prosecution of the suit or the enforcement of any judgment obtained therefrom.

(c) Upon completion of appropriate training, employees designated by the fire department, health and human services department, mayor's citizens' assistance office, police department, public works and engineering department, and solid waste management department are authorized to issue citations charging the violation of any of the provisions of this chapter. Duly trained and des-

***Cross references**—Duty of automobile wrecker drivers to remove glass, debris, etc., from scene of accident, § 8-213; deposit of garbage or waste at airports, § 9-67; removal of trash on streets after moving of buildings, § 10-73; clean up after demolition or removal of structures, § 10-356 et seq.; litter in buses, § 28-30(a)(2).

ignated employees of the solid waste management department are also authorized to issue citations charging the violation of any provisions in this Code relating to solid waste, including but not limited to garbage, refuse, and dumpsters. (Code 1968, § 20-30; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 7, 10-12-88; Ord. No. 95-406, § 9, 4-12-95; Ord. No. 98-613, § 63, 8-5-98; Ord. No. 04-1076, § 3, 10-20-04; Ord. No. 05-64, § 1, 1-19-05)

Sec. 39-96. Information required on solid waste transport vehicles.

(a) It shall be unlawful for any person to operate or cause to be operated any vehicle whose major use (as defined by the director) is the transporting of solid waste upon any public street within the city unless the name and telephone number of the hauler is posted and maintained thereupon in the manner provided in this section. The word "hauler" as used in this section shall mean the owner of the vehicle, provided that if the vehicle is operated pursuant to a lease or other arrangement whereby the owner is not entitled to the use of the vehicle, then "hauler" shall mean the person entitled to the use of the vehicle.

(b) It is an affirmation defense to prosecution under this section that the cargo transported by such person:

- (1) Contains two cubic yards of solid waste or less; or
- (2) Originated outside the city and is destined for transport outside the city, provided that no solid waste is loaded or unloaded within the city.

(c) It is also an affirmative defense to prosecution under this section that:

- (1) The vehicles is owned by a political subdivision and is marked in compliance with the law applicable to vehicles owned by such subdivision; or
- (2) The vehicle is required to be marked or posted in a manner inconsistent herewith by applicable state or federal laws, rules or regulations and is marked or posted in compliance therewith.

(d) The name and telephone number required to be posted by this section shall be printed on a vertical or nearly vertical surface upon both sides, and when the configuration of the vehicle allows, in the rear, in proportional and proportionally spaced block letters and numbers not less than three inches in height having a brush stroke not less than three-eighths inch in width, shall be of a solid color which contrasts with the background color upon which they are printed and shall be maintained in a clean and unobstructed manner at all times. Abbreviated names may be used, provided that the hauler notifies the health and human services and the solid waste management department directors of the abbreviation. In the event that the vehicle is designed in such a manner that the solid waste is transported within a trailer or off-site service type of receptacle which is towed or carried by the vehicle, then the letters and numbers required on the rear of the vehicle may be printed upon such trailer or receptacle in lieu of the vehicle itself. The requirement may be met through the use of decals.

(Code 1968, § 20-31; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 7, 10-12-88; Ord. No. 90-635, § 94, 5-23-90; Ord. No. 93-514, § 65, 5-5-93)

Sec. 39-97. Information required on bulk containers.

(a) It shall be unlawful for any bulk container service provider to use or to provide any bulk container for the use of any other person within the city unless the name and telephone number of the bulk container service provider is posted and maintained thereon in the manner provided in this section.

(b) The name and telephone number required to be posted by this section shall be printed on a vertical or nearly vertical surface upon the bulk container in proportional and proportionally spaced block letters and numbers not less than two and one-fourth inches in height having a brush stroke of not less than three-eighths inch in width, shall be of a solid color which contrasts with the background color upon which they are printed and shall be maintained in a clean condition at all times. Abbreviated names may be used, provided that the bulk container service provider notifies

the health and human services and the solid waste management department directors of the abbreviation. If the bulk container is designed for on-premise emptying, then the name and telephone number shall be printed on the side thereof which is intended for access by the truck or other mechanical device which empties the bulk container.

(Code 1968, § 20-32; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 7, 10-12-88; Ord. No. 90-635, § 95, 5-23-90; Ord. No. 93-514, § 66, 5-5-93)

Sec. 39-98. Duty of property owners for collection.

Property owners shall ensure that solid waste collection services are provided on a regularly scheduled basis to collect all solid waste generated or accumulated on their property. Such schedule will be established to ensure that solid waste is collected at least one time per week or more frequently if required to prevent the creation of any hazard to public health or public nuisance." (Ord. No. 88-1643, § 8, 10-12-88; Ord. No. 98-115, § 8, 2-11-98)

Sec. 39-99. Placement for collection in the central business district.

It shall be unlawful for any owner, manager, tenant, or occupant of any business establishment or building in the central business district, or the agent or employee of such person, to fail to comply with the following minimum standards relating to the placement and collection of garbage, rubbish, or recyclable material:

(1) *Types of receptacles.* Suitable containers must be used for private service commercial collection of municipal solid waste. Solid waste generated or accumulated in any business establishment or building shall be contained in a bulk container or one of the following trash receptacles:

a. *A garbage or rubbish container.* A garbage or rubbish container shall meet the requirements of section 39-61 of this Code.

b. *Plastic bags.* Plastic bags shall have a minimum film thickness of two mils.

(2) *Cardboard boxes.* When cardboard boxes alone are placed for collection, they shall be broken down, flattened, and tied in bundles not exceeding four feet.

(3) *Collection.* Collection of garbage, recyclable material, or rubbish is permitted at all hours except between 7:00 a.m. and 2:00 p.m.

(4) *Placement.*

a. Garbage, trash, and recyclable material receptacles and cardboard boxes shall not be placed out for collection earlier than 2:00 p.m. on the day of collection, and the receptacles shall be removed immediately after collection of the contents.

b. No garbage, trash, or recyclable material receptacle or cardboard box may be placed out for collection for more than four hours, and the receptacles shall be removed from an improved public street right-of-way, including the street, sidewalk, or other public right-of-way property adjacent thereto, no later than 7:00 a.m.

c. Garbage, trash, and recyclable material receptacles and cardboard boxes shall be placed out for collection at the curblines of a public street in front of or adjacent to the premises and in such a manner as to leave a five foot minimum width corridor for pedestrian passage.

d. Garbage, trash, and recyclable material receptacles may not be placed adjacent to or in a parking meter zone or a commercial vehicle loading zone or within five feet of any crosswalk.

(5) *City-owned trash receptacles.* Solid waste generated or accumulated in any business establishment or building shall not be placed in city-owned trash receptacles used to collect litter.

- (6) *Exception.* This section does not apply to sidewalk litter collected by the city or the Houston Downtown Management District.

(Ord. No. 04-1060, § 2, 10-13-04; Ord. No. 07-464, § 8, 4-11-07; Ord. No. 09-823, §§ 22, 23, 9-2-09)

Sec. 39-100. Reserved.

ARTICLE VI. SCREENING OF BULK CONTAINERS

Sec. 39-101. Screening required.

(a) An owner or lessee of property shall place or maintain a bulk container so that it is not visible from the street right-of-way on the address side of the property. A bulk container located on a service drive behind a building on said property shall not be deemed visible from the street right-of-way.

(b) A bulk container shall be deemed to be visible only if it can be seen by any person who is standing at grade level on any part of the right-of-way of a public street having a right-of-way width of 40 feet or more that adjoins the address side of the property on which the bulk container is located.

(c) An owner or lessee of property may utilize a berm, building, fence, wall, gate, shrubbery, or a combination thereof, to accomplish the screening of a bulk container from view.

(Ord. No. 07-516, § 1, 4-25-07)

Sec. 39-102. Offenses.

(a) *Offenses.* It shall be unlawful for any person to:

- (1) Fail to comply with section 39-101 of this Code.
- (2) Place or cause to be placed a bulk container on private property without first obtaining the permission of the owner or person in charge of the property.
- (3) Fail to maintain screening as required under this article.

(b) *Defenses.* It is a defense to prosecution under subsection (a) above that:

- (1) The bulk container is in daily actual use, exclusive of weekends, holidays, and inclement weather days, for the purpose of disposing of waste generated by the demolition or construction, or both, of improvements on the property upon which the bulk container is situated and that all building permits required for the work have been obtained.
- (2) The bulk container was placed by or upon written authority of the director on a temporary basis for a neighborhood clean-up campaign or similar temporary purpose.
- (3) The bulk container is used exclusively for the collection of recyclable materials.
- (4) There is inadequate space to locate the bulk container upon the property in a manner that complies with section 39-101 of this Code.
- (5) Placement of the bulk container on the property in a manner that complies with section 39-101 of this Code would violate any provision of:
 - a. Chapter 26 of this Code relating to off-street parking requirements;
 - b. Chapter 42 of this Code relating to planning standards;
 - c. Chapter 10 of the Building Code relating to means of egress; or
 - d. The Fire Code relating to dumpsters or fire apparatus access roads.

(Ord. No. 07-516, § 1, 4-25-07)

Sec. 39-103. Scope.

This article shall not apply to a bulk container situated upon property that is owned and maintained by a public school district or a private school.

(Ord. No. 07-516, § 1, 4-25-07)

Sec. 39-104—39-110. Reserved.

ARTICLE VII. COMMERCIAL SOLID WASTE OPERATORS*

Sec. 39-111. Definitions.

As used in this article, the following terms shall have the meanings ascribed in this article, unless the context of their usage clearly indicates another meaning:

Commercial properties means land used for commercial and industrial purposes, excluding apartment and condominium complexes and land used for single-family residential dwelling purposes as defined in section 42-1 of this Code.

Commercial solid waste operator means any person who collects, hauls, or transports solid waste or industrial waste for a fee by use of any means, including, but not limited to, front-load dumpster trucks, roll-off trucks, or rear-load garbage trucks.

Director means the director or the director's designee of the city's department of administration and regulatory affairs.

Industrial waste has the meaning ascribed to the term "industrial solid waste" by Chapter 361 of the Texas Health and Safety Code, as may be amended from time to time.

(Ord. No. 02-526, § 1, 6-19-02; Ord. No. 02-1166, § 1, 12-18-02; Ord. No. 08-52, § 65, 1-16-08, eff. 1-26-08)

Sec. 39-112. Scope.

The provisions of this article shall not apply to any municipally-owned commercial solid waste operator or to any commercial solid waste operator for services performed under a contract between the operator and the city.

(Ord. No. 02-526, § 1, 6-19-02)

Sec. 39-113. Franchise required.

It shall be unlawful for any commercial solid waste operator to collect, haul or transport solid waste or industrial waste from commercial prop-

erties located within the city without first having obtained a franchise for that purpose upon the consent of the city council.

(Ord. No. 02-526, § 1, 6-19-02)

Sec. 39-114. Franchise administration.

Any franchise granted pursuant to this article shall be administered by the director, upon such application and rules as the director may establish, including standards for performance.

(Ord. No. 02-526, § 1, 6-19-02)

Sec. 39-115. Granting of franchise.

(a) After receiving a complete application, the director may make such investigation as he considers necessary to determine whether the applicant meets the requirements of law and of this article.

(b) The director may require the applicant to furnish additional information to assist the director in his determination.

(c) After the director determines whether the applicant meets the requirements of the law and this article the director or his duly authorized representative shall recommend either (1) that the city council deny the franchise agreement or (2) that the city council approve the franchise agreement.

(d) Each franchise proposed by the director pursuant to this article shall incorporate the terms of this article and shall address at a minimum the following terms and conditions, which shall be as consistent as practicable between franchises:

- (1) Definition of gross revenues;
- (2) Statement that the franchise is not exclusive;
- (3) Amount and time of payment to the city, including right of the city to inspect the franchisee's records to determine compliance and provision for a late penalty;
- (4) Requirements for record keeping;
- (5) Requirements for release, indemnification and insurance;

***Editor's note**—Formerly, Article VI, renumbered pursuant to Ord. No. 07-516, § 1, adopted April 25, 2007.

- (6) Provisions for default and termination, including the opportunity to cure;
- (7) Payment of liquidated damages to the city;
- (8) Prohibition against assignment of franchise without consent of the city; and

- (9) Such other miscellaneous terms and conditions that the director determines to be necessary, appropriate and consistent with terms and conditions in other city franchises.

(Ord. No. 02-526, § 1, 6-19-02; Ord. No. 02-1166, § 2, 12-18-02)

Sec. 39-116. Franchise fee.

Any franchise granted pursuant to this article shall provide that the commercial solid waste operator shall be liable for an annual franchise fee equal to four percent of the operator's gross revenues from the collection, hauling, or transporting of solid waste or industrial waste within the scope of this article, payable quarterly, within 45 days of the close of the calendar quarter for which the quarterly payment is calculated. The initial quarterly payment shall cover the period beginning as of the effective date of the franchise. Any necessary prorations shall be allowed. The operator shall reflect the franchise fee as a separate line item on the invoice from the operator to the customer.

(Ord. No. 02-526, § 1, 6-19-02; Ord. No. 02-1166, § 3, 12-18-02)

Sec. 39-117. Identification required.

(a) It shall be unlawful for any person to operate, or to cause or allow to be operated, any vehicle while engaged in any activity for which a franchise is required under this article unless there is conspicuously displayed upon both sides of the vehicle a decal at least five inches by six inches in size issued by the director.

(b) In any prosecution under this article it shall be presumed that any vehicle not in display of the decals required in this section is not in compliance with the requirements of this article.
(Ord. No. 02-1166, § 4, 12-18-02)

Sec. 39-118. Penalty.

(a) Without limitation of other remedies available to the city, persons operating in violation of the terms of this article, shall be liable to the city for all fees authorized by this article dating to the inception of such violation.

(b) Any person who violates any provision of this article shall be guilty of an offense and upon conviction thereof, shall be punished by a fine of not less than \$150.00 nor more than \$500.00 for each violation.

(c) A citation issued under section 39-117(a) shall be dismissed upon proof that the required decals were affixed to the cited vehicle within five business days of the issuance of the citation.

(Ord. No. 02-1166, §§ 4, 5, 12-18-02)