

Adopted March 14, 2011

CITY OF HOUSTON
SOLID WASTE ORDINANCE

ARTICLE I. COLLECTION AND DISPOSAL

Section 1.1 *Purpose and Goals.*

The purpose of this Ordinance is to benefit the public health, safety, and welfare of the residents of the City. This Ordinance provides for the orderly and efficient collection and management of Solid Waste within the City, and allows the City to provide quality Solid Waste Management in a manner consistent with the Houston County Solid Waste Management Plan, and pursuant to the requirements of Minnesota Statutes § 115A.46, Subd. 5.

Section 1.2 *Definitions*

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

Acceptable Waste means all Solid Waste generated and collected in the County except that Acceptable Waste shall not include Non-Processible Waste and Unacceptable Waste.

City means Houston, Minnesota.

Collection means the aggregation of Solid Waste from the place at which it is generated and includes all activities up to the time when the Solid Waste is delivered to a Solid Waste management facility.

Council means the Houston City Council.

County means Houston County, Minnesota.

Generator means any person who generates or aggregates Solid Waste.

Hauler means any person who Collects or Transports Solid Waste, Recyclable Materials or Yard Waste, but does not include a Self-Hauler.

Hazardous Waste means any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may:

A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of Hazardous Waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and

corrosives. Hazardous Waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

LaCrosse Facility means the refuse-derived fuel facility owned and operated by Xcel Energy in La Crosse, Wisconsin, and the landfill owned and operated by LaCrosse County when the Xcel refuse-derived fuel facility is unavailable.

Mixed Municipal Solid Waste means:

A. Garbage, refuse, construction and demolition debris and other Solid Waste that the Generator of the waste aggregates for Collection, except as provided in paragraph B.

B. Mixed Municipal Solid Waste does not include: auto hulks, street sweepings, ash, mining waste, sludges, tree and agricultural wastes, waste tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.

Mixed Municipal Solid Waste Services means Collection, Transportation, processing, or disposal of Mixed Municipal Solid Waste Generated in the City, including but not limited to regularly scheduled service, on-call service, one-time service, rental and other use of equipment such as Solid Waste containers, compactors, compactor boxes, and the like, and any other service that involves or facilitates Collection, Transportation, processing, or disposal of Solid Waste materials as Mixed Municipal Solid Waste. It does not include the sale of equipment used for the Collection, Transportation, processing, or disposal of Mixed Municipal Solid Waste. It does not include Collection, Transportation, or management of Recyclable Materials, Yard Waste, source separated compostable materials, problem materials, or other waste materials when these materials are segregated by the Generator for the purpose of recycling or composting and are delivered to a recycling facility or compost facility, or the sale, rental, or other use of equipment necessary to facilitate Collection, Transportation, or management of these materials.

Multiple Dwelling means any building used for residential purposes consisting of more than four dwelling units with individual kitchen facilities for each.

Non-Processible Waste means Solid Waste generated and collected in Houston County that cannot be processed by the La Crosse Facility due to its physical characteristics or harmful impact on the La Crosse Facility, including: steel banding; baling wire; tree trunks or logs or other bulky waste greater than 6 inches in diameter, or 4 feet in length, or weighing over 100 pounds; propane tanks of any size; aerosol cans in quantity; pressurized tanks; fencing materials; plastics in significant quantity; major parts of motor vehicles, trailers, agricultural equipment, marine vessels or similar items; farm or other large machinery; asbestos or asbestos containing materials; contaminated soil; construction and demolition debris; and waste, except paper products, from the following establishments: service stations, auto paint shops, chemical plants, plastic processing plants and textile plants.

Nonresidential Property means all property not defined as Residential Property.

Recyclable Materials means paper, plastic, tin cans, aluminum, motor oil, glass, and other materials as determined by Houston County, each separated or otherwise prepared, which are intended for manufacturing reuse and recycling.

Residential Mixed Municipal Solid Waste Bags means Residential Mixed Municipal Solid Waste Collection bags sold by retailers licensed under Article III.

Residential Property means property on which there is a single family home, a duplex, a triplex, a four-plex, an apartment building, a mobile home, a condominium, a townhouse, a cooperative housing unit, or any other residential building as determined by the City.

Self-Hauler means a person who Transports their own Solid Waste for Solid Waste Management purposes.

Solid Waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, mining, and agricultural operations and from Residential and Nonresidential Property, and from community activities, but does not include Hazardous Waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the federal Water Pollution Control Act, as amended; dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Solid Waste Management means activities that are intended to affect or control the Generation of Solid Waste and activities which provide for or control the Collection, Transportation, processing, treatment, and disposal of Solid Waste.

Solid Waste Management Plan means the Houston County Solid Waste Management Plan developed, adopted, and approved under Minn. Stat. §115A.46.

Transportation or *Transports* means the conveying of Solid Waste from one place to another.

Unacceptable Waste means Solid Waste that is generated and collected in Houston County that may cause damage to or materially adversely affect the operation of the La Crosse Facility and/or landfill as determined by the La Crosse Facility, La Crosse County and Houston County, including, but not limited to:

- A. Cleaning fluids, crank case oils, cutting oils, paints, acids, caustics, poisons or drugs.
- B. Any Hazardous Waste or waste defined as hazardous in 40 C.F.R. Section 261.3 (as amended) or by the U.S. Environmental Protection Agency, or classified as a toxic substance or toxic waste, or prohibited for incineration by any local, state or federal agency having jurisdiction over the Facility.
- C. Radioactive waste or materials or hazardous waste regulated under 52 U.S.C. Section 6921-6925 and regulations adopted thereunder, or any other Federal, state or local law.
- D. "Hazardous substances" defined in 42 U.S.C. 6901 et seq. and any regulations promulgated thereunder.

E. Wastes requiring special handling to comply with applicable local, state or Federal law, including (i) pathological, biological, infectious, or explosive materials; (ii) oil sludges; (iii) cesspool or human Waste; (iv) human or animal remains or waste.

F. Waste with excess moisture and any type of waste either smoldering or on fire or at its kindling point or in the process of initiating combustion.

G. Other materials that may be established as Unacceptable from time-to-time by La Crosse County, Houston County or the La Crosse Facility.

Yard Waste means garden wastes, leaves, lawn cuttings, weeds, and prunings generated at Residential or Nonresidential Properties.

Section 1.3 Littering.

A. No person shall place any Solid Waste in any street, alley, or public place or upon private property except in proper containers for Collection or other lawful disposal. No person shall throw or deposit Solid Waste in any stream or other body of water.

B. No person shall deposit anywhere within the City any Solid Waste in such manner that it may be carried or deposited by the elements upon any public place or any other premises within the City.

C. It shall be illegal to use another Generator's Solid Waste storage container, inspect its contents, or remove its contents unless provided prior authorization by the owner or lawful custodian of the container.

Section 1.4 Recyclable Materials.

A. *Separation from Other Waste.* For all persons who are owners, lessees, or occupants of any residential building wherein there are four or fewer dwelling units, Recyclable Materials shall be separated from Mixed Municipal Solid Waste in accordance with rules, regulations and procedures as adopted by the City for the separation of Recyclable Materials from Mixed Municipal Solid Waste.

B. *Multiple Dwellings.* Occupants of Multiple Dwelling properties shall have the same opportunity to recycle afforded to occupants of other residential dwelling units. It is unlawful after January 1, 2011, for any Multiple Dwelling owner, association or joint management entity to negotiate, execute, or maintain a contract for Multiple Dwelling Solid Waste Collection unless it includes, as part of that contract or as part of a separate contract, a minimum of biweekly Collection of Recyclable Materials or is deemed adequate by the City.

Section 1.5 Open Burning, Burying Solid Waste; Composting.

No person shall open burn or bury any Solid Waste in the City. This section does not prevent anyone from composting Yard Waste on their premises.

Section 1.6 Proper Storage, Collection and Disposal Required.

Every person shall, in a sanitary manner, dispose of Solid Waste that may accumulate upon property they own or occupy in accordance with the terms of this Article. Mixed Municipal Solid Waste shall be collected or otherwise lawfully disposed of at least once each week. Every occupant and owner of any Residential Property shall use the Residential Collection service(s) contracted or provided by the City.

Section 1.7 Containers.

A. *Required.* Every occupant or owner of any Residential or Non-Residential Property shall:

(1) be provided on the premises by the City or a licensed Hauler one or more containers to receive and contain all Solid Waste that may accumulate between Collections, or

(2) purchase Residential Mixed Municipal Solid Waste Bags from a retailer licensed under Article III.

B. *Use of Containers and Residential Mixed Municipal Solid Waste Bags.*

(1) All normal accumulations of Mixed Municipal Solid Waste shall be deposited in such containers or Residential Mixed Municipal Solid Waste Bags, except that Yard Waste may be stored in closed containers not meeting the requirements of this section.

(2) Solid Waste shall be drained of liquid and Mixed Municipal Solid Waste shall be wrapped before being deposited in a container. Highly flammable or explosive material shall not be placed in containers or Residential Mixed Municipal Solid Waste Bags.

C. *Standards.* Each Residential container or Residential Mixed Municipal Solid Waste Bag shall be watertight, shall be impervious to insects and rodents, and shall not exceed __ gallons in capacity. Special use containers (1.5 to 6 yards in size) for short term cleanup events, such as relocations (moving), and disaster cleanups are allowed for a maximum of two (2) weeks. Any commercial or business establishment having a Solid Waste volume exceeding two cubic yards per week shall provide bulk or box-type Solid Waste storage containers. Containers shall be maintained in good and sanitary condition. Any container not conforming to the requirements of this Article or having ragged or sharp edges or any other defect likely to hamper or injure the person collecting the contents shall be promptly replaced after notice by the City.

D. *Recycling Containers.* The City or licensed Hauler, at the discretion of the City, shall provide to the owner or occupant of each Residential or Non-Residential Property a container for the separation and Collection of Recyclable Materials. The owner or occupant of each Residential or Non-Residential Property shall leave the recycling containers at the premises upon relocation and shall maintain the recycling containers in good condition.

E. *Placement for Collection.* Each container or Residential Mixed Municipal Solid Waste Bag for premises abutting the alley shall be placed at the rear of the property next to the alley. Alleys are to be passable at all times. Where no alley exists, the container or Residential Mixed Municipal Solid Waste Bag shall be placed near the rear door of the building to which it relates and shall be placed

at the front property line for Collection, but it shall not be so placed before 5 p.m. the night before Collection and shall be removed by 5 p.m. the day of Collection.

ARTICLE II. HAULERS

Section 2.1 Residential Collection Services.

Authorization. The City shall provide Mixed Municipal Solid Waste Collection Services for Residential Property by contracting with one or more Haulers to exclusively provide such Services in the City. No license shall be issued for Residential Collection except to Haulers contracted with the City. No person shall collect Mixed Municipal, Solid Waste or Recyclable Materials within the City except persons holding a City license and contract to do so. No person shall permit Mixed Municipal Solid Waste or Recyclable Materials to be picked up from his or her Residential premises except by a licensed Hauler.

A. Nothing in this Ordinance shall prohibit the City from directly providing Residential Mixed Municipal Solid Waste Services and to engage in the billing and collection of fees for the rendition of such services.

B. *Procedure and Criteria.* The City shall enter into one or more Residential Mixed Municipal Solid Waste Collection contracts after issuing a request for proposals (RFP) from Haulers interested in contracting with the City to perform such services. The City shall not contract with any Hauler to provide Services that does not comply with this Ordinance, including the licensing criteria. The City shall contract only with Haulers that are in compliance with the Houston County Solid Waste Ordinance and County Solid Waste Plan, and that have a Waste Delivery Agreement with Houston County.

C. *Service Charges.*

(1) *Generally.* The owner or occupant of all Residential Property receiving Mixed Municipal Solid Waste Services within the City shall pay to the City a service charge assessed in accordance with rates set forth by resolution of the Council and any service charges collected by the City on behalf of the County.

(2) *Billing and Payment.* The service charges for each Residential Property shall be paid on a periodic basis. If the occupant does not pay the service charges, the fee owner of each Residential Property will be responsible for payment. The Council by resolution may make service charges:

(a) payable at the same time as bills for other City services and subject to the same conditions of payment; or

(b) payable as part of retail price of Residential Mixed Municipal Solid Waste Bags.

(3) *Collection of Unpaid Charges.* If any charge is unpaid and overdue by more than 30 days on September 1 of any year, the Council shall levy an assessment against the property equal to the unpaid charges as of that date plus interest at a rate set by the Council from that date.

The clerk shall certify the assessment to the County Auditor for collection in the same manner as local assessments.

(4) *Disposition of Funds.* All service charges shall be deposited in a separate account in the general fund and be used for Solid Waste Management purposes.

Section 2.2 Nonresidential Collection Services.

The City may contract with one or more licensed Haulers to provide Nonresidential Mixed Municipal Solid Waste Collection Services in the City in the same manner prescribed in this Ordinance for Residential Mixed Municipal Solid Waste Collection Services. In such event, no license shall be issued for Nonresidential Collection except to Haulers contracted with the City, and no person shall collect Nonresidential Solid Waste, Mixed Municipal Solid Waste or Recyclable Materials within the City except persons holding a City license and contract to do so. No person shall permit Solid Waste, Mixed Municipal Solid Waste or Recyclables to be picked up from his or her Nonresidential premises except by a licensed hauler.

Section 2.3 Collection Licenses.

A. Procedure.

(1) *Applications.* An applicant for such license shall make application to the City Administrator on a form prepared by the City. Such forms shall require accurate information including, but not limited to:

- (a) The name of the owner or licensee.
- (b) A description of the kind of services to be rendered.
- (c) A description of each motor vehicle to be used for hauling, including the license number thereof.
- (d) The manner and kind of service proposed to be given the customers and scheduled pickups, including whether the applicant intends to use a Residential Mixed Municipal Solid Waste Bag or container system.
- (e) The route or area to be served.

(2) *Council Review of Applications.* The Council may by resolution order a public hearing to consider an application. The Council may by resolution request additional information from the applicant.

(3) *Suspension or Revocation of License.* The City Council may suspend or revoke the license of any licensee whose conduct is found to be in violation of this Ordinance upon thirty (30) days written notice and a City Council hearing. Suspension or revocation may be based on health, safety, and welfare concerns arising out of the performance of the licensee, its employees or agents, and/or its vehicles and equipment.

B. *Additional Requirements:*

(1) *Insurance and Bonding.* No Collection license shall be issued until the applicant files with the City a certificate of insurance issued by an insurance company licensed to do business in the state currently covering all vehicles to be used by the applicant in the business. The minimum limits of coverage for such insurance shall be as follows: such policy shall be an umbrella or all-perils policy in the minimum amount of Two Million Dollars (\$2,000,000.00). Such insurance shall be kept in force during the term of the license and shall provide for notification of the City prior to termination or cancellation. The City may also require that the Hauler post a performance bond if such Hauler is contracted to perform Collection Services for the City. Any license issued under this section shall automatically be revoked upon notice of termination or cancellation of such insurance or performance bond and shall remain revoked until, and unless, other insurance or performance bond is provided as required in this section.

(2) *Collection of Recyclable Materials.*

(a) A licensed Hauler serving Residential Property must offer recycling services for: newsprint, corrugated cardboard, mixed paper, magazines, tin cans, aluminum cans, glass containers, plastic containers, boxboard, telephone books, and additional materials as from time to time mandated according to the terms of its contract with City, and the requirements of the County.

(b) As part of the licensing requirement, all Haulers serving Nonresidential Generators must offer recycling service for: newsprint, corrugated cardboard, mixed paper, magazines, tin cans, aluminum cans, glass containers, plastic containers, boxboard, telephone books, and additional materials as from time to time mandated by the City or County. The Hauler will be responsible for providing adequate containers as judged by the City to store Recyclable Materials.

C. *Fees; Term.* The annual license fee shall be as duly set by the Council by resolution. Such license shall expire December 31 of each year.

Section 2.4 Vehicles.

All vehicles of licensees under this Article shall be operated in accordance with the following regulations:

A. Each Collection vehicle shall be marked on the outside so as to identify the contractor. Every vehicle used for hauling Solid Waste shall be covered, leakproof, durable, and of easily cleanable construction. Every vehicle used for hauling Solid Waste shall be sufficiently airtight so as to prevent unreasonable quantities of dust, paper, or other collected materials to escape. Every vehicle shall be kept clean to prevent nuisances, pollution or insect breeding, and shall be maintained in good repair.

B. Vehicles operated pursuant to the provisions of this Ordinance shall be excepted from the seasonal weight restrictions placed upon City roads except that:

(1) No vehicle shall be operated on any road at any time where special postings specifically prohibit Collection vehicles; and

(2) During any period of time when weight restrictions are imposed, each Collector shall make provisions for operation or conformance with such restrictions so that service is not interrupted.

Section 2.5 Collection Times.

No Collection shall take place before 7 a.m. or after 8 p.m. of any day. Mixed Municipal Solid Waste and Recycling Collection shall occur on the days directed by the City.

ARTICLE III. RESIDENTIAL MIXED MUNICIPAL SOLID WASTE BAG SYSTEM [OPTIONAL TO CITY]

Section 3.1 Residential Mixed Municipal Solid Waste Bag System.

The City may implement a Residential Mixed Municipal Solid Waste Bag System in which licensed retailer's make Residential Mixed Municipal Solid Waste Bags available to residents to be used as waste containers for certain Mixed Municipal Solid Waste Collection services provided by licensed Haulers.

Section 3.2 Residential Mixed Municipal Solid Waste Bag Distribution Site Licensing

A. *Required.* All locations in the City where Residential Mixed Municipal Solid Waste Bags are distributed and made available to residents in the City shall be required to be licensed by the City.

B. *City Council to Establish Fee Schedule.* The City Council may by resolution establish a fee schedule for the issuance of licenses for the distribution of Residential Mixed Municipal Solid Waste Bags.

ARTICLE IV. VIOLATIONS AND PENALTIES.

Section 4.1 Violations as Nuisances.

All violations of the provisions of this Ordinance are deemed public nuisances. The City may seek the assistance of the County in enforcing the provisions of this Ordinance.

Section 4.2 Penalty.

Any person violating the provisions of this Ordinance shall, upon conviction, be guilty of a petty misdemeanor. A second or more frequent violation within a period of two years of an initial violation shall be deemed a misdemeanor. Criminal prosecution for violations shall not preclude, where indicated, forfeiture of performance bond and revocation of a Collection license. Since all violations are hereby deemed a public nuisance, the City may enforce compliance by seeking injunctive relief without the election of such remedy affecting the City's right to enforce these provisions by any one or more other of the foregoing remedies.