

ORDINANCE NO. 2011-03-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, REPEALING CHAPTER 86 OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY AND ADOPTING A NEW CHAPTER 86 WITH UPDATED PROVISIONS REGARDING THE COLLECTION AND DISPOSITION OF SOLID WASTE AND RECYCLABLE MATERIAL IN THE CITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of McKinney, Texas (the “City”) is a Home Rule City possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code, and the City’s Home Rule Charter; and

WHEREAS, the City Council of the City of McKinney, Texas (“City Council”) possesses, pursuant to the Texas Local Government Code, the authority to regulate the collection and disposal of solid waste and recyclable material in the City; and

WHEREAS, the City Council finds that the adoption of updated provisions regarding the collection and disposition of solid waste and recyclable material in the City is in the best interest of the health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. All of the above premises are found to be true and correct legislative determinations and are hereby incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. The Code of Ordinances of the City of McKinney, Chapter 86, is hereby amended by deleting said chapter in its entirety and replacing it with new Chapter 86, which shall read as follows:

“CHAPTER 86 – SOLID WASTE

ARTICLE I. IN GENERAL

Sec. 86-1. Purpose of chapter; duties of property owners and occupants.

The accumulation of garbage, recyclable material, rubbish, brush and other refuse constitutes a public nuisance, a health hazard, a fire hazard and a

safety hazard. Therefore, it shall be required that owners and tenants of private residences, private commercial buildings and businesses, and the occupants of all private noncommercial buildings which accumulate refuse, deposit their garbage, rubbish, brush, and other refuse for removal by the agent designated by the city. Such owners, renters and occupants shall maintain the premises of the buildings and property free of accumulations of all other waste materials and nuisance materials. Such owners, renters and occupants shall not allow materials intended for recycling to create a nuisance on the premises of buildings and properties. All waste materials shall be disposed of in a place and by methods deemed appropriate by the city. The purpose of this chapter is to provide for a method of collecting and disposing of garbage, recyclable material, rubbish, brush, and other refuse, and to maintain neighborhood quality and aesthetics and maintenance of property values by providing for the general health and welfare.

Sec. 86-2. 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:

100-year flood means a flood that has a 1.0 percent or greater chance of recurring in any given year or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period.

Bags means plastic sacks designed to store garbage, recyclable material, rubbish, brush, or other refuse with sufficient wall strength to maintain physical integrity when lifted by the top. The total weight of a bag and its contents shall not exceed thirty-five (35) pounds.

Brush means plants or grass clippings, leaves or tree trimmings, including bags and/or bundles of landscape waste.

Bulky waste means stoves, refrigerators with a freon evacuation certificate, water tanks, washing machines, furniture, carpet, fencing materials, more than ten bags of landscape waste or bundles of brush and other items of a similar nature that can be loaded by two employees in five (5) minutes or less, except construction debris, dead animals, hazardous waste or stable matter with weights or volumes greater than those allowed for trash collection containers. Bulky waste may be collected twice per calendar year per billing account, at no charge.

Bundle means tree, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four feet (4') in length or fifty pounds (50 lbs.) in weight.

Commercial means any structure other than single-family and duplex residential development including hotels, motels, residential structures containing three or more dwellings, and residential care facilities.

Commercial garbage means all normal establishment waste products of commercial buildings or establishments, including multifamily dwellings, other than single-family and duplex residential development, other than sewage and body waste, manure, dead animals over ten pounds in weight, special and hazardous waste, large tree trimmings, demolition or remodeling debris, or any other waste material that cannot be broken down to fit into commercial garbage containers herein specified.

Commercial garbage container means all steel or metallic containers, provided by the City or its contractor, designed to hold commercial garbage, and shall specifically include all roll-off containers, roll-off compaction containers, and all such containers with a volume of between three (3) cubic yards and ten (10) cubic yards.

Commercial recycling container means all steel or metallic containers, provided by the City or its contractor, designed to hold recyclable material, and shall specifically include such containers with a volume of between six (6) cubic yards and eight (8) cubic yards.

Container lease charge means a monthly charge that shall be assessed for the use of trash collection containers that are provided by the sanitation contractor. Said charge shall apply to 20-cubic-yard, 30-cubic-yard, 35-cubic-yard, and 42-cubic-yard open-top containers.

Dead animals means animals or portions thereof equal to or greater than ten pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

Designated contractor means such private firm designated by the city for the collection, transportation, and/or disposal of solid waste, and the collection, transportation and/or processing of recyclable materials.

Extra accumulations means quantities of waste that are containerized or bundled that cannot be fitted into the 95-gallon residential garbage receptacle, not exceeding ten bundles of brush or normal bags of waste (for amounts in excess described herein refer to unusual accumulations).

Garbage. See "Commercial garbage" or "Residential garbage."

Generator means any person whose acts or processes produces or causes solid waste and/or recyclable materials.

Hauler means a person, other than the designated contractor, who has obtained and maintains a valid permit to collect and divert recyclable materials.

Hazardous waste means any solid waste identified or listed as a hazardous waste by the administrator of the U.S. Environmental Protection Agency (EPA) pursuant to the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*, as amended.

Landfill means any facility operated by the North Texas Municipal Water District.

Nonresidents means persons residing other than within the corporate city limits.

Nuisance means solid waste that is stored, processed or disposed of in an unsightly manner that causes the pollution of surrounding land, the contamination of groundwater or surface water, the breeding of insects or rodents, or the creation of odors adverse to human health, safety or welfare.

Person means any person, firm, corporation, business trust, partnership, association, organization or municipal entity, incorporated or unincorporated, other than the city.

Premises means all public and private establishments, including individual residences, all multifamily dwellings, residential care facilities, hospitals, schools, businesses, other buildings and all vacant lots.

Recyclable material means any material, substance or byproduct that has been recovered or diverted from the non-hazardous waste stream for purposes of reuse, recycling or reclamation, and is any material or product designated in writing by the city's environmental services manager as being suitable for reuse, recycling or reclamation.

Recycle means to collect, buy, sell, store and/or produce any material, substance or product from waste material or byproducts and to keep such from being included in the waste stream intended for disposal.

Refuse means all solid waste except hazardous wastes.

Residential garbage means all normal waste products of single-family and duplex residential development, other than sewage and body waste, manure, dead animals over ten pounds in weight, special and hazardous waste, large tree trimmings, demolition or remodeling debris, or any other waste material that cannot be broken down to fit into residential garbage receptacles herein specified.

Residential garbage receptacle means a plastic receptacle provided by the city or its contractor, designed for automated or semi-automated solid waste collection systems, and having a tight fitting lid capable of preventing littering and the entrance into the container by small animals. The weight of the receptacle and its contents shall not exceed one hundred fifty pounds (150 lbs.) and shall be designed for ease of movement and use. A receptacle shall be provided to each residential unit and applicable commercial customers, with ownership of the receptacle retained by the contractor.

Residential recycling receptacle means a plastic receptacle provided by the city or its contractor, designed for automated or semi-automated recyclable material collection systems, and having a tight fitting lid capable of preventing littering and the entrance into the container by small animals. The weight of the receptacle and its contents shall not exceed one hundred fifty (150 lbs.) and shall be designed for ease of movement and use. A receptacle shall be provided to each residential unit and applicable commercial customers, with ownership of the receptacle retained by the contractor.

Residents means persons residing within the corporate limits of the city.

Rubbish means any nonputrescible solid waste, including aluminum cans, paper, boxes, glass, yard trimmings, leaves, feathers and any other matter commonly understood to be rubbish.

Solid waste means garbage, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, municipal, commercial, mining and agricultural operations and from community and institutional activities. The term does not include:

- (1) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under V.T.C.A., Water Code, ch. 26, as amended;
- (2) soil, dirt, rock, sand or other natural or manmade inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or
- (3) waste materials that result from activities associated with the exploration, development or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under V.T.C.A., Natural Resources Code, § 91.101, as amended, unless the waste, substance or material results from activities associated with gasoline plants, natural gas liquids processing

plants, pressure maintenance plants or re-pressurizing plants and is hazardous waste as defined by the administrator of the United States Environmental Protection Agency under the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 *et seq.*).

(4) Recyclable material; however, recyclable material may become solid waste at such time, if any, as it is abandoned or disposed of as other solid waste, rather than recycled, whereupon it will be solid waste with respect only to the party actually abandoning or disposing of the material.

Special waste means solid waste or a combination of wastes that, because of its quantity, concentration, physical or chemical characteristics or biological properties, requires special handling and disposal to protect the human health or the environment. If improperly handled, transported, stored, processed or disposed of or otherwise managed, it may pose a present or potential danger to human health or the environment. Special waste includes, but is not limited to:

(1) hazardous waste from conditionally exempt small-quantity generators that may be exempt from full controls under 30 Tex. Admin. Code §§ 335.401--335.419, as amended, relating to household materials which could be classified as hazardous waste;

(2) class I industrial nonhazardous waste not routinely collected with municipal solid waste;

(3) special waste from health-care-related facilities (refers to certain items of medical waste);

(4) municipal wastewater treatment plant sludges, other types of domestic sewage treatment plant sludges, and water-supply treatment plant sludges;

(5) septic tank pumpings;

(6) grease and grit trap wastes;

(7) wastes from commercial or industrial wastewater treatment plants, air pollution control facilities, and tanks, drums, or containers used for shipping or storing any material that has been listed as a hazardous constituent in 40 C.F.R. ch. 261, Appendix VIII, as amended, but has not been listed as a commercial chemical product in 40 C.F.R. § 261.33(e) or (f), as amended;

(8) slaughterhouse wastes;

- (9) dead animals;
- (10) drugs, contaminated foods, or contaminated beverages, other than those contained in normal household waste;
- (11) pesticide (insecticide, herbicide, fungicide, or rodenticide) containers;
- (12) discarded materials containing asbestos;
- (13) incinerator ash;
- (14) soil contaminated by petroleum products, crude oils, or chemicals;
- (15) used oil;
- (16) light ballasts and/or small capacitors containing polychlorinated biphenyl (PCB) compounds;
- (17) waste from oil, gas, and geothermal activities subject to regulation by the state railroad commission when those wastes are to be processed, treated, or disposed of at a solid waste management facility permitted under this chapter;
- (18) waste generated outside the boundaries of the state that contains:
 - a. any industrial waste;
 - b. any waste associated with oil, gas and geothermal exploration, production or development activities; or
 - c. any item listed as a special waste in this definition;
- (19) any waste stream other than household or commercial garbage, refuse or rubbish;
- (20) lead acid storage batteries; and
- (21) used-oil filters from internal combustion engines.

Unusual accumulations means:

- (1) for residences, each regular collection that cannot fit into a residential garbage receptacle;

- (2) for commercial establishments, accumulations that would not occur in the ordinary course of business;
- (3) bulky waste;
- (4) materials judged by the executive director of public works or his duly appointed representative to be hazardous, such as oil, acid or caustic materials; and
- (5) existing conditions favorable to the harboring and/or breeding of any agent, such as an insect, reptile, rodent or other agents capable of transferring a pathogen from one organism to another.

Article II. Collection and Disposal

Sec. 86-23. Sanitation service deposits and fees.

Deposits and fees as specified in Appendix A of the Code of Ordinances which may be amended from time to time shall be required of all customers requesting the collection and disposal of refuse by the city's designated contractor as specified in Section 86-32. Deposits may be waived at the discretion of the utility billing supervisor if proof of good credit standing is provided. All utility customers shall receive solid waste and recyclable material collection service. The charges for collection service shall be included on the monthly utility bill of the customer. For partial months, such charges shall be prorated for each and every day of the month during which such service is available and provided to the residential customers. An increase in monthly fees may be made upon approval of the city council. A penalty for overdue payment of the monthly utility bill may be charged.

Sec. 86-24. Garbage, recyclable material, rubbish, brush and refuse nuisances.

The storing or keeping of garbage, rubbish, brush, refuse and/or recyclable material that is unsightly or a health, fire or safety hazard or a harbor for reptiles, rodents, insects, or other animals is prohibited and shall constitute a public nuisance. Removal of all such materials is the owner's responsibility and shall be done at the owner's expense.

Sec. 86-25. Dumping.

Dumping of any garbage, solid waste, recyclable material, rubbish, brush and/or other refuse in any place and in any manner other than that designated in this chapter is prohibited.

Sec. 86-26. Collection containers and receptacles for garbage, trash, brush and recyclable material.

(a) Every owner, tenant, occupant or lessee using or occupying any building, house, or structure within the corporate city limits of the City of McKinney for residential, church, school, commercial, business or other purpose shall use a collection container or receptacle authorized by this article provided by the city, its designated contractor as specified in Section 86-32, or a hauler. All garbage and trash mixed with water or other liquids shall be drained before being placed in the collection container or receptacle.

(b) The lids of the residential garbage and recycling receptacle shall at all times be closed so that animals, rodents, flies and other insects may not have access to the contents thereof.

(c) Every owner, tenant, occupant or lessee using or occupying any building, house or structure within the corporate city limits of the City of McKinney for residential, church, school, commercial, business or other purpose shall notify the city of any loss, theft or damage to the collection container or receptacle and shall be responsible for replacement costs unless the damage is a result of collection by contractor.

(d) It shall be the duty of every residential customer to keep the residential garbage and recycling receptacle in a clean and sanitary condition.

(e) Except when placed for collection, residential garbage and recycling receptacles shall be stored behind the front building line if collection occurs from a public street, or stored adjacent to the main structure if collection occurs from an alley. Commercial collection containers or receptacles shall be kept in a screened area, unless such requirement is waived by the executive director of public works or his duly appointed representative.

(f) Brush that cannot fit into the residential garbage receptacle shall be tied in bundles not to exceed four feet (4') in length with no limbs exceeding six inches in diameter. Bundles of brush shall be comparable in size and weight with bags of garbage, not to exceed fifty pounds (50 lbs.) each.

(g) The city manager or his designated representative shall cause regular inspections to be made to ensure compliance with the terms of this section, and if any unsanitary collection container or receptacle is found, a notice shall be placed upon such collection container or receptacle informing the owner to clean the same within five (5) days. Failure to comply with such notice shall constitute a violation of this section.

Sec. 86-27. Residential collection regulations.

(a) There shall be collection one time weekly for regular garbage, recyclable material, rubbish, and brush and landscape waste other than bulky waste.

(b) It shall be the duty of the owner, occupant, tenant or lessee of a residence, commercial establishment or other building to place the garbage or recyclable material in proper receptacles at the curblineline or at the alley most accessible to the collection crew vehicle as determined by the contractor and the executive director of public works or his duly appointed representative.

(c) Garbage and recyclable material shall not be placed at the point of collection before 6:00 p.m. prior to the designated day of collection and any garbage receptacles or recycling receptacles shall be removed within 24 hours from the point of collection and stored in accordance with section 86-26, subsection (e).

(d) Unusual accumulations, brush or bulky wastes shall not be placed for regular garbage pickup. Removal of unusual accumulations, brush or bulky wastes may be requested for a special collection, and there shall be an additional fee for such service as determined from time to time by city council per pick-up truckload for more than twelve (12) pick ups per calendar year. The city shall be the authority to determine what constitutes unusual accumulations if there is a difference of opinion between a customer and the contractor.

(e) Materials intended for recycling shall not be placed for collection with waste materials. Recycling collection activities are to be separate from garbage collection activities.

(f) It shall be the duty of the owner, occupant, tenant or lessee of any premises to report the failure to collect properly prepared property garbage and recyclable material for a consecutive period of two (2) weeks to the city where the holder of a franchise granted by the city is responsible for such collection; and if the owner, occupant, tenant or lessee elects to regularly remove garbage and recyclable material from his premises, it shall be unlawful for such owner, occupant, tenant or lessee to remove such accumulation less often than required under this section.

(g) All putrescible waste must be placed in the residential garbage receptacles.

(h) From the time of placement of solid waste and of recyclable material at the point of collection by the owner, occupant, tenant or lessee of a residence for collection in accordance herewith, such solid waste and recyclable material shall be delivered by the designated contractor, as specified in Section 86-32, to the

appropriate facility for disposition designated by the city pursuant to contract with the city.

Sec. 86-28. Residential collection fees.

(a) For the collection and removal of solid waste and brush in a residential garbage receptacle and collection of recyclables in a residential recycling receptacle once a week, a monthly charge shall be as determined from time to time by the city council.

(b) For each additional residential garbage receptacle, or residential recycling receptacle, the monthly charge shall be as determined from time to time by the city council.

(c) For the collection of unusual accumulations, there shall be a fee as determined from time to time by the city council.

(d) For other solid waste collection or disposal services not listed, the city and contractor shall work together to determine a reasonable fee, pending council approval of the fee within sixty (60) days.

Sec. 86-29. Commercial collection regulations.

(a) Collection containers commonly used by commercial garbage and recycling collectors, including residential garbage and recycling receptacles (for commercial use), shall be placed at a location on the premises mutually agreeable to the customer, the city, its designated contractor as specified in Section 86-32, and hauler, as applicable. The executive director of public works or his duly appointed representative may authorize the use by a commercial customer of residential garbage or recycling receptacles on a case by case basis after the commercial customer makes request for use of such residential receptacles. The collection and removal of garbage, recyclable material, rubbish and brush from buildings and premises used for commercial and institutional purposes shall not be made less than one (1) time per week and as often as necessary in order to maintain such premises free of accumulations of garbage, trash and brush. Materials for recycling shall not be placed for collection with waste materials. Recycling collection activities shall be separate from garbage collection activities. A commercial business shall be responsible for the collection and lawful disposal of hazardous waste generated by that commercial business.

(b) From the time of placement of solid waste and of recyclable material at the point of collection by the commercial business for collection in accordance herewith, such solid waste and recyclable material shall be delivered by the designated contractor, as specified in Section 86-32, to the appropriate facility for disposition designated by the city pursuant to contract with the city.

Sec. 86-30. Commercial collection fees.

The service charge for commercial collections shall be based on the frequency of collection necessary and the amount regularly collected.

(1) *Minimum service level.* The minimum service level is one (1) garbage collection container and one (1) recyclable material collection container picked up one (1) time a week for a fee as determined from time to time by the city council. Additional collection containers can be requested for an additional fee as determined from time to time by the city council. The property owner is responsible for replacement of the collection containers in the case of theft, loss, or damage. There shall be a fee as determined from time to time by the city council charged for collections of unusual accumulations.

(2) *Other solid waste collection and disposal services.* For other solid waste collection or disposal services not listed, the city and contractor shall work together to determine a reasonable fee, pending city council approval of the fee within sixty (60) days.

(3) Service charges for private haulers of recyclable materials shall be by customer agreement.

Sec. 86-31. Collection and disposal of commercial garbage and recyclable material in central business district.

(a) The term "central business district," as used in this section, is defined as the area encompassed by the following streets: Hunt Street, Davis Street, Church Street and McDonald Street. Commercial garbage and recyclable material from the central business district shall be stored in sealed plastic bags prior to collection and shall be placed on the curb for pickup. Such containers shall be placed at the curbside after 4:00 p.m. on the designated day of pickup.

(b) The disposal of commercial garbage, recyclable material, rubbish and brush by placing the same in public trash receptacles located on public streets in the city is prohibited. The collection and removal of garbage, recyclable material, rubbish, and brush from buildings and premises used for commercial or institutional purposes shall be made not less than two (2) times per week and as often as necessary in order to maintain such premises free of accumulations of garbage, trash and brush.

(c) Fee charges for central business district bagged garbage and recyclable material are determined from time to time by the city council.

(d) Fee charges for private haulers of recyclable materials shall be by customer agreement.

Sec. 86-32. Collection contractor.

(a) The city shall designate a contractor to regularly collect and remove all garbage, recyclable material, rubbish, brush and solid waste, excluding hazardous waste, from all premises within the corporate city limits. This agent shall operate by contract with the city. The city manager shall take action to see that the terms of the contract are fulfilled. In the event of any conflict between the terms of the contract and the city's ordinances on the collection of solid waste, the ordinances shall control. The designated collection contractor shall not be responsible for the collection of hazardous waste.

(b) In the event that the designated collection contractor lacks adequate and/or appropriate resources to collect and remove solid waste from public improvement projects, the executive director of public works may authorize solid waste removal by another contractor.

Sec. 86-33. Disposal of solid waste.

(a) Individual residents may remove garbage, recyclable material, rubbish, brush or unusual accumulations from their own residences, provided that the garbage, recyclable material, rubbish, brush or unusual accumulations are secured as provided in section 86-35(a). A resident shall be allowed to dispose of two (2) pick-up truckloads per month at the landfill without charge upon presentation of a current utility bill and a driver's license with identical addresses.

(b) It shall be unlawful for any person to engage in the business of collecting solid waste within the city except as may be specifically authorized by contract with the city and the payment of a license fee to so operate.

(c) It shall be unlawful for any person to engage in the business of collecting solid waste within the city except as may be specifically authorized in accordance with this article.

Sec. 86-34. Permit for private haulers of recyclable materials.

(a) *Permit Required.* It shall be unlawful for any person, company, or corporation to engage in the business of collection of commercial recyclable materials without obtaining a permit from the executive director of public works or his duly appointed representative. A separate permit shall be required for each generator from which the hauler intends to collect recyclable materials.

(b) *Letter of certification.* A hauler shall only receive a permit for recyclable material if the hauler includes a letter of certification with the permit application. The letter of certification shall be from the recyclable material generator and shall certify to the city the name and address of the generator, the name and address

of the desired hauler, the constituents to be recycled, a brief contingency plan ensuring that waste materials will be separated from the recyclables prior to hauling, arrangements for solid waste management, and the final destination of the recyclable materials. This information shall be amended as necessary.

(c) *Application for Permit.* An applicant for a permit as a private hauler of recyclable materials must provide the following:

- (1) the business name;
- (2) the owner's name and driver's license number;
- (3) business address;
- (4) home address;
- (5) business phone number;
- (6) home phone number;
- (7) list of vehicles used for waste removal, including:
 - a. make;
 - b. model; and
 - c. license number;
- (8) proof of current bond of ten thousand and no/100 dollars (\$10,000.00) on a form provided or approved by the city;
- (9) the name of the final destination for recyclable materials and proof that such destination has demonstrated its ability to be an approved processor capable of diverting recyclable materials in accordance with all applicable laws and regulations;
- (10) proof of liability insurance; and
- (11) a permit fee and a fee for each additional permit requested as specified in Appendix A of the Code of Ordinances, which may be amended from time to time. This fee shall not be prorated for a partial year.

All information required in this subsection (c) shall be amended and updated, within thirty (30) days of a change or when any of the current information in the possession of the city becomes outdated.

(d) *Renewal of Permit.* Each permit shall be renewed annually and the information listed in subsection (c) of this section shall again be provided, along with a copy of the bond renewal, liability insurance, name of recyclable materials processor and a renewal fee as specified in Appendix A of the Code of Ordinances, which may be amended from time to time.

(e) *Term of Permit.* The term of the permit shall be from January 1 to December 31 of each year. An expired permit is not valid for continued operation under this chapter.

(f) *Vehicle Permit Required.* Any vehicle used by a hauler for the purpose of removing and transporting recyclable materials must have, prominently displayed, a permit supplied by the city.

(g) *Collection and Diversion of Recyclable Materials.* Haulers shall only divert recyclable materials in accordance with the requirements of this article and State law. Haulers shall submit evidence of such compliance with this article for each month demonstrating, at a minimum: (1) the amount of recyclable materials collected; (2) dates of collection; and (3) receipts for disposal. The city has the right to inspect and audit the records of any hauler in order to ensure compliance with this section. Diversion of construction and demolition debris as recyclable material shall only be accomplished after separation of recyclable material from solid waste at the construction or project site. Commingling construction and demolition solid waste with construction and demolition recyclable material is prohibited. The failure of a hauler to separate at the source any recyclable material from solid waste, which results in the hauler transporting solid waste as an unauthorized solid waste contractor, may result in the revocation of the hauler's permit.

(h) *Revocation of Permit.* The permit of a hauler may be revoked by the executive director of public works for the following reasons:

- (1) failing to keep a current bond filed in the public works division;
- (2) being observed by the executive director of public works or his duly appointed representative placing recyclable materials or any other solid waste in any location other than as authorized by State law;
- (3) being observed by the executive director of public works or his duly appointed representative improperly securing a load while in transit to or from any location that requires transport on city streets;
- (4) failure to display a permit on any truck used for recyclable materials;

(5) being observed by the executive director of public works or his duly appointed representative commingling solid waste with recyclable material and thereby transporting solid waste as an unauthorized solid waste contractor; or

(6) when a recyclable material generator terminates the letter of certification referenced in section 86-34(b).

If the executive director of public works revokes the permit of a hauler, the hauler must surrender all permits that have been issued to him by the public works division. Operating under a revoked or expired permit is a violation of this section.

(i) *Restoration of Revoked Permit.* A hauler may appeal the revocation of his permit to the city manager or his duly appointed representative in writing within five (5) days of the date of revocation; the city manager or his duly appointed representative shall have the authority to reverse or uphold the revocation or establish terms by which the permit may be restored. The decision of the city manager or his duly appointed representative shall be final. If a permit has been revoked due to illegal dumping by a hauler, the permit may only be restored with the payment of a restoration fee. If a permit revocation is upheld by the city manager or his duly appointed representative, the private hauler of recyclable materials may only obtain a new permit, as follows:

(1) after the first revocation: the applicant for a permit must make payment of a restoration fee as determined from time-to-time by the city council; and

(2) after the second or subsequent upheld revocation, a hauler may not obtain a new permit under this article for twelve (12) calendar months from the date of revocation.

(j) *Transferability.* The permit is not transferable. A permit shall be required for each hauler desiring to provide service on a case-by-case basis.

Sec. 86-35. Transport of refuse.

(a) Refuse collected by persons other than the agent designated by the city shall be transported in vehicles which are covered by a metal top, screening or canvas or in such other manner so as to prevent the escape of any particle of refuse. Refuse escaping from such a truck shall be deemed as litter, and the driver shall be responsible for littering.

(b) Haulers from any locale other than the city using the streets of the city shall be required to use similarly suitable vehicles and to be responsible for the containment of the contents, as provided in subsection (a), above.

Sec. 86-36. Prohibited acts.

- (a) Pilfering, scattering contents or meddling with garbage, recyclables, rubbish, brush or collection containers or receptacles by any person other than the owner, occupant or authorized agent is prohibited.
- (b) It shall be unlawful for any person to deposit any burning match, charcoal, ember or other burning material in any collection container or receptacle used for the disposal of garbage, recyclable material, rubbish, or brush.
- (c) It shall be unlawful for any person to deposit any materials not included in the definitions of garbage, recyclable material, rubbish and brush in any collection container or receptacle used for the disposal of garbage, recyclable material, rubbish or brush.
- (d) It shall be unlawful for any unauthorized person, other than the commercial customer or its employees or agents, to deposit any materials in a commercial collection container or receptacle.
- (e) It shall be unlawful to deposit solid waste generated from within the corporate city limits in any place other than a landfill designated in this chapter unless authorized by the executive director of public works or his duly appointed representative.
- (f) It shall be unlawful to store or place in a screening enclosure that is provided for garbage and/or recycling containers and/or receptacles any debris, solid waste or any other item for storage that is not a solid waste and/or a recycling container and/or receptacle.

Sec. 86-37. Diversion of recyclable materials.

- (a) Individual residents may remove recyclable material from their own residences; provided that the recyclable materials are secured as provided in section 86-35(a).
- (b) It shall be unlawful for any person, including, without limitation, a resident or commercial business customer, to cause a diversion of recyclable materials at any location in violation of State law.
- (c) No person, including, without limitation, a resident or commercial business customer, may contract for the diversion of recyclable materials with a person who is not a permitted hauler in compliance with section 86-34.

Sec. 86-38. Wastes from tree-trimming operations.

It shall be the duty of any person employing a contractor, tree-trimmer, or other person to trim or prune trees or shrubs to have said trimmings removed from the premises at his own expense.

Sec. 86-39. Applicability of state law.

The provisions of this article are adopted under V.T.C.A., Health and Safety Code ch. 361.

(a) The regulations promulgated in this article cover all aspects of municipal solid waste management under the authority of the state and are based primarily on the stated purpose of V.T.C.A., Health and Safety Code ch. 361, as amended, hereafter referred to as the Texas Solid Waste Disposal Act. The owner or operator of a municipal solid waste landfill (MSWLF) facility shall comply with any other applicable federal rules, laws, regulations or other requirements.

(b) All permits, including any special provisions therein, issued by the applicable state department shall remain in force after the effective date of the ordinance from which this article is derived. To the extent that a standard has been changed by this article, the permittee may continue to operate under standards contained in previously issued permits, except for those requirements mandated by EPA 40 C.F.R. §§ 257 and 258, as amended, which implement certain requirements of subtitle D of the Resource Conservation and Recovery Act (RCRA). For those federally mandated requirements, the permittee is under an obligation to apply for a change to his permit in accordance with federal and State law, as applicable, to incorporate the required standard. Timely submission of a request for a permit change qualifies the owners or operators of existing MSWLF units for interim status. MSWLF facility owners or operators with interim status are treated as having been issued a permit modification or amendment until the executive director makes a final determination on the permit modification request or the commission makes a final determination on the permit amendment request. Facility owners or operators with interim status must comply with the requirements of this article upon the effective date of this article.

(c) A permit or license shall be required for each municipal solid waste (MSW) unit, as required by applicable law, and the executive director, at his discretion, may include one or more different types of units in a single permit if the units are located at the same facility.

(d) The following are some of the rules with which the city's solid waste manager should have a working knowledge:

(1) *30 Tex. Admin. Code ch. 281.* This chapter describes how a permit application, amendment or modification is processed and approved;

(2) *30 Tex. Admin. Code ch. 305.* The chapter details the preparation and form of permits, applications, amendments and modifications;

(3) *30 Tex. Admin. Code ch. 330.* This chapter outlines municipal solid waste management rules. This is the principle rule municipal solid waste managers utilize; and

(4) *30 Tex. Admin. Code ch. 335.* This chapter outlines rules covering management of hazardous waste, both industrial and municipal. It also outlines how industrial solid waste is handled and when it can be deposited in municipal solid waste landfills.

(e) *Regional and local plans.* Every region in the state is completing a regional plan. The regions are defined by the existing regional councils of government established by the state legislature. These regional plans outline important data in analyzing the solid waste needs or to help with problem solving. The regional or local plan should be consulted for guidance or consistency in solving a problem or deciding on a course of action. In either case, the solid waste manager should be consistent with the plan, or seek amendment to the plan, before proceeding to implement a solution.

Sec. 86-40. Enforcement.

The provisions of this article shall be enforced by the executive director of public works or his duly appointed representative, and it shall be unlawful for any person to interfere with or hinder the executive director of public works or his duly appointed representative in the exercise of his duties under this article. Notwithstanding any provisions contained herein to the contrary, the executive director of public works or his duly appointed representative are hereby granted the authority to issue immediate citations to persons violating any provision of this article.

Sec. 86-41. Offense.

(a) Any person violating or failing to comply with any provision or requirement of this article, who continues to violate or fails to comply with same, shall also be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$2,000.00, such offenses listed herein being violations of the health and safety ordinance of the city. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur. This section shall be in addition to and cumulative of the provisions for abatement by the city of any nuisance created by

the violation of this ordinance and the charging of the cost of abatement of said nuisance against the owner of the property.

(b) Notwithstanding the foregoing, any violation of any provision of this article which constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the city for such purpose.

(c) In addition to any other remedies or penalties contained herein, the city may enforce the provisions of this article pursuant to the applicable provisions of V.T.C.A., Local Government Code ch. 54, which chapter provides for the enforcement of municipal ordinances.

(d) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this article.”

Section 3. The Code of Ordinances of the City of McKinney, Chapter 86, Appendix A, Schedule of Fees, is hereby amended and shall read as follows:

“APPENDIX A – SCHEDULE OF FEES

CHAPTER 86. SOLID WASTE.

Sec. 86-23. Sanitation service deposits and fees.

Service:

Residential deposit . . . \$40.00

General commercial/retail deposit--Pays first month

Commercial (3- to 10-cubic-yard containers) deposit--Pays first month

Commercial (3- to 10-cubic-yard containers) delivery fee . . . \$15.95

Commercial (20- to 42-cubic-yard containers) deposit--Pays first haul and delivery charge

Commercial (20- to 42-cubic-yard containers) delivery fee . . . \$53.63

Container removal/resetting fee (for delinquent accounts only) . . . \$53.63

Residential garbage or recycling receptacle replacement fee . . . \$50.00

Servicing locks . . . \$18.27

Servicing casters . . . \$18.27

Servicing enclosures . . . \$15.66

Sec. 86-27. Residential collection regulations.

Collection of unusual accumulations:

First two truckloads . . . Free

Third and subsequent collections per residential unit per year, per pick up truckload . . . \$26.00

Sec. 86-28. Residential collection fees.

Service levels:

Monthly charge, per residential unit (one residential garbage receptacle and one residential recycling receptacle) . . . \$15.36

Each additional residential garbage receptacle, per month, per residential unit . . . \$6.60

Each additional residential recycling receptacle, per month, per residential unit . . . \$2.20

Collection of unusual accumulations:

First two truckloads . . . Free

Third and subsequent collections per residential unit per year, per pick up truckload . . . \$26.00

Sec. 86-30. Commercial collection fees.

(1) *Service levels for garbage and recycling receptacles:*

a. Residential garbage receptacle and residential recycling receptacle (one each) picked up one time a week, per month . . . \$13.84

b. Additional residential garbage receptacle, per month . . . \$13.84

c. Additional residential recycling receptacle picked up one time a week, per month . . . \$2.20

d. Collections of unusual accumulations, per pickup truck load . . .
\$26.00

(2) *Service levels for commercial garbage and recycling containers (noncompacted containers):*

a. *Front-load containers:*

TABLE INSET:

Monthly Rates								
Collections per week	Garbage						Recycling	
	1	2	3	4	5	6	1	2
3 cubic yards	\$79.19	\$131.72	\$181.05	\$221.73	\$253.05	\$325.03	-	-
4 cubic yards	\$95.35	\$173.52	\$217.48	\$277.04	\$318.02	\$422.34	-	-
6 cubic yards	\$125.78	\$210.51	\$319.34	\$415.52	\$474.67	\$588.36	\$75.43	\$95.43
8 cubic yards	\$169.06	\$279.69	\$410.32	\$505.33	\$583.04	\$694.35	\$88.71	\$108.71
10 cubic yards	\$209.46	\$443.17	\$586.76	\$776.10	\$988.36	\$1,136.99	-	-

Each additional commercial garbage container, per month . . . same as base rate

Each additional commercial recycling container, per month . . . \$44.35

b. *Roll-off containers:*

TABLE INSET:

<i>Roll-off containers (cubic yards)</i>	<i>Per pickup</i>
20	\$292.50, plus a monthly container lease charge of \$96.58
30	\$339.18, plus a monthly container lease charge of \$96.58

(3) *Service levels for commercial collections (compacted containers):*

TABLE INSET:

<i>Roll-off containers (cubic yards)</i>	<i>Per pickup</i>
6	\$121.75
8	\$149.28
20	\$347.15, plus a monthly container lease charge of \$96.58
30	\$422.18, plus a monthly container lease charge of \$96.58
35	\$458.86, plus a monthly container lease charge of \$96.58
42	\$508.87, plus a monthly container lease charge of \$96.58

Sec. 86-31. Collection and disposal of commercial garbage and recyclable material in central business district.

Service levels:

Low, per month . . . \$28.48

Moderate, per month . . . \$62.85

High, per month . . . \$109.00

Sec. 86-34. Permit for private haulers of recyclable materials.

Annual permit fee, per fiscal year . . . \$500.00”

Section 4. All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of McKinney, Texas, are hereby repealed to the extent that said ordinances, orders or resolutions, or parts thereof, are in conflict herewith.

Section 5. If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining

sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 6. This Ordinance shall become effective immediately upon its passage and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 1st DAY OF MARCH, 2011.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary
BLANCA I. GARCIA
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney