

## EXHIBIT "A"

### SOLID WASTE MANAGEMENT ORDINANCE

#### ARTICLE I

#### DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BRUSH.** Parts or all of trees and shrubs.

**BULKY WASTE.** Bundled brush, stacked brush, fencing, appliances and other waste materials with weights or volumes greater than those allowed for permanent containers, but specifically excluding unacceptable waste.

**BUNDLED BRUSH.** Brush securely tied together to form an easily handled package not exceeding four (4) feet in length or fifty (50) pounds in weight.

**COMMERCIAL CONTAINER.** Metal containers supplied by CONTRACTOR affording capacity to service a customer so as to prevent spillage, unsightly and unsanitary conditions.

**CURBSIDE SERVICE.** Garbage, trash and recyclable materials to be picked up by the CONTRACTOR which will be located at the curbside of the street bearing the customer's address.

**CUSTOMER.** Any owner, occupant, tenant or person otherwise in control of premises in the City on which garbage and trash are accumulated and from which the same is removed or required to be removed pursuant to the terms of this article.

**DEBRIS.** Automobile frames, loose brush, and dirt, concrete, rocks, bricks, lumber, plaster, sand, gravel, or other waste construction materials, unless the amount of these materials is insignificant.

**FENCING.** Wooden fence panels cut into four (4) feet by six (6) feet sections. Loose pickets must be tied and in bundles weighing no more than fifty (50) pounds in weight per bundle.

**GARBAGE.** Solid waste that is putrescible animal and vegetable waste materials from the handling, preparation, cooking or consumption of food, including waste materials from markets, storage facilities and the handling and sale of produce and other food products.

**GARBAGE CONTAINER.** A container for garbage and trash constructed of metal or substantial plastic with a tight fitting lid or cover and handles strong enough for workers to handle conveniently, or substantial plastic bags tied closed. Such container's opening shall have a greater or equal diameter to the base. When loaded, such container shall not exceed 50 lbs. in weight.

**HAZARDOUS WASTE.** All fecal material, oil, sludge, and any radioactive, pathological, toxic, explosive, flammable, combustible, acidic or volatile materials, or other hazardous or improper wastes, including solid wastes regulated as hazardous under the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 1002, *et. Seq.*, or regulated as toxic under the Toxic Substance Control Act, 15 U.S.C.A. Section 2601, *et. Seq.*, and regulations promulgated thereunder or other applicable Federal or State law concerning the regulations of hazardous or toxic wastes.

**LANDFILL PROHIBITED WASTE MATERIALS.** Non-hazardous materials prohibited from disposal at Type I landfills pursuant to TCEQ regulations, 30 TAC, Section 330.5. Prohibited waste materials include, but are not limited to, tires, used oil filters, and PCBs or PCB containing equipment.

**LIQUID WASTE.** For this purposes of this article, means any waste material that is determined to be or contain “free liquid” by a paint filter test (EPA METOHD 9095)

**LOCAL REGULATORY AUTHORITY.** Any municipal officer or department of the City, designated by the City Manager, to administer this article.

**OWNER.** The actual fee holder of the title to residential property and does not include tenant, lessee or subleases.

**RECYCLABLE MATERIAL.** A material that has been recovered or diverted from the nonhazardous waste stream for the 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. The following constitute recycled materials:

- (1) Paper products, such as newspapers, magazines and catalogs, mail, paper bags and other paper, excluding waxed paper products, such as milk cartons and similar items.
- (2) Cardboard products, excluding those contaminated by food products such as pizza and food boxes or other products that have been saturated by non-recyclable materials.
- (3) Clear and colored glass bottles and jars, excluding mirrors, windows, ceramics, light bulbs and other glass products.
- (4) Metal cans composed of tin, steel or aluminum (excluding, scrap metals).
- (5) Plastic containers of polyethylene terephthalate and high density polyethylene varieties, also designated as #1, #2 #3, #4, #5 and #7 clear plastics.
- (6) Other items identified as recyclable by the city and any person having a franchise or license with the city, or as a result of changes in local, state, or federal laws, ordinances, or regulation.

**RECYCLING.** The legitimate use, reuse or reclamation of solid waste.

**RECYCLING CONTAINER.** A ninety-five (95) or sixty-five (65) gallon wheeled cart for use by residential or small commercial customers for curbside recyclable collection by the City’s franchise hauler.

**RESIDENTIAL PREMISE.** A dwelling within the City limits occupied by a person or group of persons comprising not more than four (4) families. A residential premise may be deemed occupied

when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction; consisting of four (4) or fewer units shall be treated as a residential premise.

**RESIDENTIAL WASTE.** Garbage and trash generated by a resident and placed curbside for the regular collection at a residential premise, but does not include unacceptable waste, debris, or bulky waste.

**SMALL COMMERCIAL CUSTOMER.** Commercial customers that generate less than 1 cubic yard of recyclable materials during a normal work week.

**SPECIAL WASTE.** Any waste defined as Special Waste by 30 TAC §330.3 (148).

**STACKED BRUSH.** Brush cut to no more than five (5) feet in length and stacked neatly at curbside.

**STABLE MATTER.** All manure and other waste matter normally accumulated in or about a stable; or any animal, livestock, or poultry enclosure; and resulting from the keeping of animals, poultry, or livestock.

**TRASH.** All household refuse other than Garbage, Debris, Loose Brush, and Bulky Waste; trash shall include grass, yard clippings, weeds, heavy accumulations of newspaper and magazines, recyclable materials, old clothes, and other household trash of like kind, but shall not include unacceptable waste.

**UNACCEPTABLE WASTE.** Any and all waste that is either:

- 1) Waste which is now or in the future becomes prohibited from disposal at a sanitary landfill by state, federal, and/or local laws and/or regulations promulgated there under; or
- 2) "Hazardous Waste"; or
- 3) "Special Waste", as defined herein; or
- 4) Waste, including landfill prohibited waste materials, which is prohibited from disposal at the landfill by CONTRACTOR including tires, concrete, and bulk petroleum or chemical products or by-products; or
- 5) Liquid waste, as defined herein, and septic tank pumping and grease and grit trap wastes; or
- 6) Sludge waste, including water supply treatment plant sludge and stabilized and/or unstabilized sludge from municipal or industrial wastewater treatment plants; or
- 7) Dead animals and/or slaughterhouse waste, except for animal euthanized under authority and direction of CONTRACTOR; or
- 8) Any waste, including "special waste" as defined herein, which because of its quantity, concentration, frequency of disposal, required disposal procedures, regulatory status, or physical, chemical, infectious or other characteristics jeopardizes or may jeopardize the environmentally sound operation of the disposal site, as determined by CONTRACTOR in its sole discretion; or
- 9) Construction debris not generated by a residential customer; or
- 10) Appliances containing CFC's that do not bear a certification tag that shows the CFC's have been properly recovered in accordance with federal law; or

11) “Stable Matter”, as defined herein.

***UNHEALTHY OR UNSANITARY SITE.*** A site where conditions represent a threat to human health and public safety, due to accumulations of waste material or frequency of service.

***UNSIGHTLY SITE.*** A site that represents a visual blight to the surrounding area.

***YARD WASTE.*** Leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material not greater than six inches in diameter that result from landscaping maintenance. The term does not include stumps, roots or shrubs with intact root balls.

## **ARTICLE II**

### **GARBAGE COLLECTION**

#### **Section A. Placing of Refuse Containers**

It shall be unlawful for any person to deposit any garbage or trash upon or along any alley, sidewalk, street or other public or private premises except in containers as authorized by the city within the corporate limits of the city.

#### **Section B. Unauthorized disposal**

It shall be unlawful for any person to place hazardous wastes, Class I industrial wastes, radioactive wastes, liquid wastes, used oil, used oil filters, lead-acid batteries, or other prohibited materials and wastes, as currently defined by the state environmental regulatory agency for curbside collection of residential or commercial waste, or in a dumpster for industrial, commercial, or institutional collection.

Rock, concrete, scraps of building materials or other trash resulting from building or remodeling operations will not be removed by the City or its contractor. However, any person may contract with the City’s franchise hauler or contractor for the disposition of such materials at the rate included in the current franchise agreement or contract.

It shall be unlawful for a residential customer to place for collection at a residence, commercial debris or materials generated from some location other than the collection location.

#### **Section C. Resident to provide containers**

Every customer using or occupying any building, house or structure within the city for residence, church, school, college, lodge, commercial business and other purposes shall provide and maintain garbage cans and receptacles of sufficient number and size, as hereinafter specified, to hold the garbage and trash that will normally accumulate on the premises. In addition, the garbage cans and receptacles shall be serviced at a frequency necessary to prevent overflow.

Every customer shall keep all acceptable solid waste, recyclable materials, bulky waste, and/or acceptable brush securely closed or bundled in such a manner as to prevent the scattering of the contents thereof and to render said contents inaccessible to insects, rodents, and other animals.

#### **Section D. Specifications for containers; number**

Each customer shall provide a container for garbage and trash constructed of metal or substantial plastic with a tight fitting lid or cover and handles strong enough for workers to handle conveniently, or substantial plastic bags tied closed. Such container's opening shall have a greater or equal diameter to the base. When loaded, such container shall not exceed 50 lbs. in weight.

#### **Section E. Tampering with containers**

(A) A person shall not remove any item from a garbage container, trash receptacle or recycling container which has been placed on the curbside of any residence or at the designated collection location of any business.

(B) A person shall not tamper with any garbage can, trash receptacle or recycling container which has been placed on the curbside of a residence or at the designated collection location of any business.

(C) The provisions (A) and (B) above shall not apply to the following.

(1) City employees who may be required to take such action in order to provide city services.

(2) Persons employed by a corporation which has a franchise or contract with the city to collect garbage, trash or recyclable materials.

(3) To the owner of the real property on which the garbage container or recycling container is placed.

#### **Section F. Placing of containers for collection**

(A) The pickup schedule for collection of garbage and trash within the city shall be twice a week during the hours of 7:00 a.m. and 7:00 p.m. for residential customers. To ensure collection of garbage and trash, a person occupying a residence shall place the garbage and trash containers at the curb prior to 7:00 a.m. on the scheduled garbage and trash collection day, but not earlier than 1:00 p.m. the day before the scheduled collection day or alternative day if the scheduled collection day falls on a holiday; provided that if the occupant of the residence is a disabled person, he or she may make arrangements to place the garbage and trash at the front doorstep or next to the garage door so as to be visible from the street. Garbage and trash containers shall be removed from the curb after collection by no later than 12 p.m. the day following collection.

(B) If the house, building, or premises from which the garbage or trash is to be collected and removed is adjacent to an alley, the owner, occupant, tenant or lessee of the premises shall be required to keep the garbage or trash container at the entrance from the alley in order that it may be easily accessible to the person collecting and removing the garbage or trash. In the event it is not practicable

to collect and remove the garbage or trash from the alley, the owner, occupant, tenant or lessee of the premises shall place the container at such point as the proper agent of the city shall find and designate to be the most accessible for collecting and removing.

### **Section G. Collection Required; authority to collect**

(A) Every person who owns, occupies or controls any premises in the city shall have solid waste services sufficient to prevent unsanitary conditions.

(B) No person shall collect garbage, trash or refuse within the city except a person, firm or corporation who has a contract or franchise with the city.

(C) No person shall collect recyclable materials from another person's commercial property, in exchange for the payment of a fee, within the city except for a person, firm or corporation who has a contract with the city or who has been issued a license from the city.

(D) The disturbance of any garbage or recycling container or in any way pilfering, scattering contents or junking in any alley or street within the city limits is prohibited.

### **Section H. Pickup schedule**

The pickup schedule for collection of garbage and trash within the city shall be as specified by the City Council.

### **Section I. Charges for collection**

The charges for the collection and removal of garbage, trash and residential recyclable materials in the city shall be in an amount as approved by ordinance of the City Council.

### **Section J. Mobile home park collection**

(A) The owner of a mobile home park may request curbside service for each individual housing unit for the collection of garbage, trash, yard waste and recyclables only. The garbage, trash, yard waste and recyclable materials must be generated by the tenant of the housing unit.

(B) To qualify for individual unit collection, a mobile home park must meet the following conditions.

(1) Maintain adequate pavement to withstand the regular use of trash and recycling collection vehicles.

(2) Maintain commercial waste collection service for its office.

(C) The rates for individual unit collection service shall be the residential rate multiplied by the number of available units in the park. The mobile home park shall pay the fees with the master meter water bill.

## **ARTICLE III**

### **COMMERCIAL COLLECTION**

#### **Section A. Commercial collection; minimum collection standards**

The collection and removal of garbage and trash from houses, buildings and premises used for industrial, commercial, or institutional purposes shall be made as often as necessary in order to maintain such premises free of accumulation of garbage and trash.

All food service establishments shall maintain garbage and trash collection at a frequency of not less than two (2) times each week, unless written approval from the local regulatory authority. Such approval may be revoked, denied or suspended at any time by the local regulatory authority when, in their opinion, the premises have become unsanitary due to collections less frequently than two (2) times each week.

Garbage and trash collection from multifamily residential complexes which provide or use mechanical packers or compactors may be made one (1) time each week upon written approval of the local regulatory authority. Such approval may be revoked, denied or suspended at any time by the local regulatory authority when, in their opinion, the premises have become unsanitary due to collections less frequently than two (2) times each week.

#### **Section B. Proof of service**

All new businesses may be required to provide proof of a valid collection agreement/contract with the City's solid waste contractor prior to the issuance of a certificate of occupancy. Building permit applicants for new construction, remodeling and demolition projects may be required to provide proof of a valid collection agreement/contract with the City's solid waste contractor prior to the issuance of a building permit.

#### **Section C. Prevention of scattering**

Every person shall keep all trash containers closed in such a manner as to prevent the scattering of the contents thereof and to render said contents inaccessible to rodents, and other pest animals.

All food service establishments shall insure that any privately owned trash receptacles on their property are maintained to prevent the scattering of garbage and trash. At a minimum, these facilities should survey their property daily and remove any scattered materials.

The disturbance of any garbage or recycling container or in any way pilfering, scattering contents or junking in any alley or street within the city limits is prohibited.

All recyclables shall be stored in a manner that prevents scattering, vector breeding or harboring, or other nuisance.

The City Manager and the City Attorney are authorized to file such claims or lawsuits as might be necessary to recover actual cost of the city cleaning up or removing such waste or material against any person responsible for the depositing of the same upon public sidewalks, alleys, storm drain systems or other public property of the City.

#### **Section D. Theft of service**

It shall be unlawful for anyone to place waste or other materials not generated at the site in an industrial, commercial or institutional container. If a complaint is made and the source of such materials are located and identified, a citation may be issued to the person or persons placing such materials in the container. Any location which has continually been found to contain hazardous materials, and which corrective or preventive actions have not been taken, shall be determined to be responsible for the proper disposal of such material.

#### **Section E. Commercial hand-load service**

A person may request commercial hand load collection service. If more than four 30-gallon containers are necessary for service, the person may utilize commercial garbage containers.

### **ARTICLE IV**

#### **LICENSE TO REGULATE RECYCLABLES**

##### **Section A. License for commercial recyclable collection required**

(A) A person commits an offense if the person engages in the business of collection of recyclable materials from a commercial, industrial or institutional property within the city in exchange for a fee without first having obtained a recyclable license from the city or having a contract or franchise with the city.

(B) It is an affirmative defense to prosecution for a violation of division (A) of this section that the person is collecting recyclable materials from the City Independent School District.

##### **Section B. Application**

(A) To obtain a recyclable collection license a person must submit an application on a form provided by the Director of Finance. The applicant must be the person who will own, control or operate the proposed collection service.

(B) The applicant for a license shall furnish the city the following information which shall be subscribed and sworn to before a notary public.

- (1) Name and address of the applicant.
- (2) Trade name under which the applicant does or proposes to do business.

(3) The number of vehicles the applicant desires to operate.

(4) The class, size and design of each vehicle, including the type of body and accessory equipment designed for automated collection.

(5) Whether or not the applicant or any person with whom the applicant has been associated or employed has a claim or judgment against such person for damages resulting from the negligent operation of a motor vehicle.

(6) The nature and character of the service the applicant proposes to render.

(7) The rates or fees the applicant proposes to pay or charge for services rendered.

(8) Number and location of commercial customers.

(9) Proof of liability insurance in an amount not less than \$1,000,000 per occurrence issued by a company authorized to do business in the state.

(10) Such other information as the local regulatory authority may require.

(C) The Director may make or cause to be made an investigation of the application for a license.

(D) The applicant shall submit with the application for the license a nonrefundable application fee which shall be in an amount approved by the City Council.

### **Section C. Term**

Each license granted by the local regulatory authority for a recyclable collection service may be issued for a period of one year. Each license may be renewable annually and may be renewed by making application as provided herein. A license shall be nontransferable.

### **Section D. License and application fees**

Each licensee shall pay to the city an annual fee for the recyclable collection license in an amount equal to 8% of the base fee charged by the hauler for materials collected from any source facility within the city.

(A) The licensee shall remit the fee to the city quarterly at the office of the Director of Finance, on or before the thirtieth day of April, July, October and January, based upon the revenues collected during the previous calendar quarter.

(B) The quarterly payment shall be accompanied by an income statement certified by the licensee acknowledging compliance with this section.

(C) The licensee shall make available to the city notifications of new commercial customers as well as cancellations of existing commercial customers, as they occur.

Each license applicant shall submit the appropriate non-refundable application fee with the license application according to the following application fee schedule:

General Recycling (including one vehicle)	\$150.00
Additional vehicles	\$50.00
Contracted Transporter (per contracted vendor)	\$150.00
Construction and Demolition (per license)	\$500.00

#### **Section E. License agreement**

The local regulatory authority may impose all reasonable rules and regulations and require the licensee to execute a license agreement as a condition precedent to issuing a license under this subchapter and as a condition subsequent to continuing validity. The rules and regulations may include but are not necessarily restricted to the type of vehicle to be used in collection, number of pickups per week required, method and route for transporting the collection, appropriate disposal locations and identification of trucks. They may also include minimum insurance requirements and execution of an indemnification. All such rules and regulations shall be subject to the approval of the City Council and shall be contained in the license agreement issued by the city to any licensee.

#### **Section F. Requirement to furnish information**

The books and records of the licensee shall be open at reasonable times for inspection by the local regulatory authority.

#### **Section G. Marking of vehicles and containers**

The licensee shall identify all vehicles and containers with its name in letters at least two inches tall.

#### **Section H. Comingled recyclable products**

A licensee collecting recyclables within the City shall not collect recyclable materials which have been mixed or comingled with garbage, trash or refuse. Any residential or commercial customer using recycling containers shall also provide a container(s) at their residence or commercial facility for the collection of garbage, trash and refuse. At no time shall recyclables mixed with garbage, trash and refuse be allowed to be collected as recyclables. All recycling facilities receiving materials generated within City limits shall meet the minimum criteria set forth in the Texas Health and Safety Code as well as the Texas Administrative Code.

Any person, firm or corporation collecting industrial, commercial, or institutional recyclables that are combined with other recyclable material must have an approved license from the local regulatory authority to do so. The materials collected from the generating facility must be the same as the materials that can be processed by the destination facility, and at no times are garbage, trash or refuse to be combined with the recyclable materials.

## **Section I. Issuance or denial of license**

The Director of Finance may issue a recyclable collection license to the applicant if the Director determines that the applicant has complied with all requirements for issuance of the license.

## **Section J. Revocation, denial or suspension of license**

The Director of Finance may revoke, deny or suspend a recyclable collection license if the Director determines that the licensee has done any of the following.

- (A) Given false or inaccurate information on the application for license or in a hearing concerning the license.
- (B) Refused to cooperate in the redress of grievances submitted to the licensee in writing by the city or licensee's customers.
- (C) Maintained unsightly or unsanitary collection receptacles after being notified of same in writing by a city or a customer.
- (D) Continued to provide, after written notice from the city, irregular service which is detrimental to the public health.
- (E) Failed to pay a fee required by this subchapter at the time it was due.

## **Section K. Appeal**

If the Director denies, revokes, or suspends a license, the city shall give notice by personal service or by certified mail, return receipt requested, to the applicant or licensee. The applicant or licensee may appeal the decision to deny, revoke, or suspend by filing a written notice with the City Manager, within five days after receipt of notice. A person who is denied a license or whose license is revoked may appeal the decision to deny a license to the City Manager and the decision to revoke a license to the Municipal Court. The City Manager, or designee, shall mail or cause to be personally delivered written notice of the time and place of the hearing to the person appealing. The notice shall be mailed to the address specified in the notice of appeal form. The City Manager, or in an appeal from the revocation of a license, the Municipal Court shall conduct a hearing and shall make a decision on the basis of a preponderance of the evidence presented at the hearing. The decision of the Municipal Court shall be final.

## **Section L. Other disposal prohibited**

The disposal of any garbage or trash in the city in any other manner than specified in this chapter is strictly prohibited and is deemed a violation of this code.

# **ARTICLE V**

## **RECYCLING REGULATIONS**

## **Section A. Tampering with containers**

(A) A person shall not remove any item from a garbage container, trash receptacle or recycling container which has been placed on the curbside of any residence or at the designated collection location of any business.

(B) A person shall not tamper with any garbage can, trash receptacle or recycling container which has been placed on the curbside of a residence or at the designated collection location of any business.

(C) The provisions (A) and (B) above shall not apply to the following.

(1) City employees who may be required to take such action in order to provide city services.

(2) Persons employed by a corporation which has a franchise or contract with the city to collect garbage, trash or recyclable materials.

(3) To the owner of the real property on which the garbage container or recycling container is placed.

## **Section B. Placement of recycling containers**

(A) To ensure collection of recyclable materials, a person occupying a residence shall place the recycling container at the curb prior to 7:00 a.m. on the scheduled recycling collection day, but not earlier than 1:00 p.m. the day before the scheduled recycling collection day or alternative day if the scheduled collection day falls on a holiday; provided that if the occupant of the residence is a disabled person, he or she may place the recycling container at the front doorstep or next to the garage door so as to be visible from the street. Recycling containers shall be removed from the curb after collection by no later than 12 p.m. the day following collection.

(B) Recycling containers shall be placed at the curb, street or alley such that no fixed object, for example a parked car, mailbox, tree or other obstruction, is within two (2) feet of the recycling container on any side and the container shall be no more than two (2) feet behind the edge or curb, street or alley; and shall not be placed in a road or alleyway in such a way as to present a hazard to normal traffic.

(C) A person operating a business shall place the recycling container at the collection location designated by the city official in charge of garbage disposal.

## **Section C. Return of containers**

A person who wishes to return the recycling container must contact the City to request a return of the recycling container. Arrangements will be made by the customer, the City and the City's franchise hauler to have the recycling container removed from the premises at the earliest convenient time. A request to withdraw from the City's recycling program may be made at any time.

## **Section D. Recycling containers assigned to property**

Recycling containers delivered to a property shall remain with the property and may not be relocated.

### **Section E. Recycling Container Replacement**

Replacement of broken, faulty, or otherwise unserviceable recycling containers shall be the responsibility of the City's franchise hauler. Customers seeking a replacement recycling container must contact the City's franchise hauler at the customer service number provided by the franchise hauler to request the replacement. Excessive replacements may result in a fee or charge for further replacements, in accordance with the franchise hauler's replacement policy.

## **ARTICLE VI**

### **ENFORCEMENT**

#### **Section A. Abatement of nuisance**

In the event that a customer shall fail to comply with any part of this article, the local regulatory authority may notify such customer by letter addressed to such customer at the customer's residential, commercial or post office address, if personal service may not be had on the customer or the customer's address is not known. The notification shall contain in brief terms the condition or conditions which exist on such customer's premises which fail to comply with any part of this article. After issuance and receipt of the notification, the City may enter upon such premises and may do such work as necessary, or cause same to be done, to abate the unlawful condition on the premises in order that the premises may comply with the requirements of this article. A statement of costs incurred by the City to abate such conditions shall be mailed to the customer and such statement shall be paid within thirty (30) days of the date of the mailing of the statement of costs.

#### **Section B. Penalty.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be fined not more than \$2,000 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.