Chapter 98 SOLID WASTE[1]

ARTICLE I. IN GENERAL

Secs. 98-1—98-25. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL

DIVISION 1. GENERALLY

Sec. 98-26. 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:

(a) *Appliances* include, but are not limited to, refrigerators, freezers, kitchen ranges, air conditioning units, dehumidifiers, water heaters, furnaces, thermostats, clothes washers, clothes dryers, dishwashers, microwave ovens, and fluorescent light fixtures (excluding bulbs). These items may contain Polychlorinated Biphenyl (PCB), capacitors, refrigerants and components containing mercury which are restricted by law from being disposed of at a landfill.

Authority means the Metro Waste Authority, successor agency to the Des Moines Metropolitan Area Solid Waste Agency.

(b) *Reserved.*

(c) *Capacitor* means a device for accumulating and holding a charge of electricity that consists of conducting surfaces separated by a dielectric fluid.

City-owned container means those solid waste containers which the city purchases and provides to the owners or occupants of residential premises for the placement of solid waste for collection by the city.

Complex or residential buildings means two or more adjacent buildings defined as residential premises that share a common address and ownership.

(d) *Director* means the director of public works or any authorized employee or representative who shall have responsibility for administering and enforcing this chapter.

Disposal site means a sanitary landfill transfer station or other facility for receiving or disposing of solid waste.

[1]Cross reference(s)—Buildings and building regulations, ch. 26; environment, ch. 42; littering, § 42-391 et seq.; health and sanitation, ch. 54; glass containers and waste materials at park and recreational facilities, § 74-96; putting glass or other debris on highway, § 114-369; utilities, ch. 118.

(e) *Extra trash* item means one 33-gallon trash bag or one box no larger than 24 × 24 × 36 inches with a maximum weight of 40 pounds.

(f) *Reserved.*

(g) *Reserved.*

(h) *Hazardous substance* has the same meaning and definition as appears in I.C. § 455B.381 and includes but is not limited to explosive materials, rags or other wastes soaked in volatile and inflammable materials; drugs, poisons; radioactive materials; highly combustible materials; and other materials which may present a special hazard to collection or disposal personnel or equipment or to the public.

Hazardous waste has the same meaning and definition as appears in I.C. § 455B.411 and includes but is not limited to fly ash or other fine or powdery material and other material which may present a special hazard to collection or disposal personnel or equipment or to the public.

(i) *Reserved.*

(j) *Reserved.*

(k) *Reserved.*

(l) *Large item* means an item that does not fit in a 33-gallon trash bag or box no larger than 24 × 24 × 36 inches. Large items include, but are not limited to, a table, a couch, a loveseat, a mattress, a box spring, four kitchen chairs, five boxes or bags (maximum 40 pounds each), or five rolls of carpet (four foot length by 18 inches in diameter).

(m) *Multifamily residential premises* means a multiple-family dwelling building, an apartment building, a condominium, or a complex of residential buildings, containing five or more individual living units.

Multiple chamber incinerator means any incinerator used to dispose of combustible refuse by burning, consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned, the refractories having a pyrometric cone equivalent of 31, tested according to the method described in the American Society for Testing and Materials, method C-24-56.

(n) *Reserved.*

(o) *Owner* means and includes, the record titleholder, or any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations imposed in this chapter shall be joint and several.

(p) *Person* means and includes an individual or group or association of individuals; a firm or any member thereof; a corporation, or any executive officer, manager, person in charge or employee thereof; and the use of a pronoun specifying one gender shall include both genders.

(q) *Reserved.*

(r) *Recyclable materials* means newspaper, corrugated containers, magazines, catalogs, junk mail, kraft bags, bimetal and ferrous cans, aluminum cans, glass containers, recyclable plastics, and paper food cartons, whether alone or in combination.

Residential premises means and includes single-family dwellings and any multiple-family dwelling up to and including four separate living units or family quarters. Garden-type apartments and row-type housing units shall be considered residential premises regardless of the total number of such apartments or units which may be included in a given housing development.

Rubble means dirt, stone, brick, or similar inorganic material, or street sweepings.

(s) *Solid waste* means useless, unwanted or discarded materials resulting from commercial, industrial, domestic and agricultural operations and other normal community activities. Wastes which are solid or semisolid containing insufficient liquid to be free-flowing are considered to be solid wastes and include in part the following: garbage; rubbish; ashes and other residue of incineration; street refuse or sweepings; dead animals; solid animal waste; decrepit automobiles and parts thereof; agricultural, commercial and industrial wastes; construction and demolition wastes; sewage treatment solid residue. For purposes of sections 98-74 and 98-75, the term "solid waste" shall have the meaning prescribed by this section except that it shall not include solid waste resulting from residential, farming, manufacturing, mining, or commercial activities on land owned or leased by the person conducting such activities if the dumping or depositing of such on that land does not violate other sections of this Code or city ordinances or statutes or regulations adopted by the state or federal government, but it shall include such solid waste which has come into the possession or control of a person because of the operation by that person of a collection, hauling, disposal, or other waste disposition service. For purposes of sections 98-74 through 98-76, the term "solid waste" shall not include rubble or a reasonable amount of organic material gathered and suitably contained for purposes of composting or fertilizing agricultural or floral plots. "Solid waste" shall not include yard debris.

(t) *Transfer station* means an intermediate solid waste disposal facility, the principal business of which is the transferring of loads of solid waste, with or without reduction of volume, from one transportation unit to another for ultimate disposal at a solid waste disposal site. The term includes an intermediate facility, as described in this definition, at which materials of a like or similar kind are also isolated, segregated, or otherwise gathered as an incident to such activities for salvage and reutilization by recycling through one or more commercial facilities; however, the term shall not include junkyards, salvage yards, or the collection, processing or transferring exclusively of recyclable materials.

(u) *Reserved.*

(v) *Reserved.*

(w) *Reserved.*

(y) *Yard debris* means grass clippings, leaves, garden wastes, brush, or tree branches or trimmings two inches or less in diameter.

(z) *Reserved.*

(C62, § 52A-1; O.8074, 8898; C75, C79, § 16-94; O.9835; C91, §§ 16-94, 16-119.03; O.13,350, 14,064, 14,228, 14,448, 14,471, 15,664)

Cross reference(s)—Definitions generally, § 1-2.

Secs. 98-27—98-51. Reserved.

DIVISION 2. PROCEDURES

Sec. 98-52. Intent of division.

It is the intent of this division to provide for certain collection and disposal procedures relative to solid waste.

(C62, § 52A-25; O.8074; C75, § 16-92; O.8987; C79, C91, § 16-92)

Sec. 98-53. Enforcement.

The director of public works shall enforce this division.

(C62, § 52A-26; O.8074; C75, C79, § 16-93; O.9835; C91, § 16-93)

Sec. 98-54. Collection.

The city proposes to provide solid waste collection service to remove solid wastes from residential premises subject to the following conditions, prohibitions and requirements:

(1) Such collection shall be made on a weekly basis not less than 52 times per annum in accordance with schedules to be developed by the city manager. If such scheduled weekly collection is deferred to a following day to conform to holiday observances or weather conditions, the city will pick up an allowed number of containers as specified in this section from allowed locations as specified in this section which is commensurate with the elapsed time since the last previous collection.

(2) The city manager is authorized and empowered, jointly, to change or amend such schedules from time to time as he or she shall deem necessary.

(3) Collection of solid waste shall be made from streets unless specifically approved by the public works director for alley or alternate collection, pursuant to the following:

a. Whenever solid waste is collected from the street, residents desiring to have solid waste collected by the city shall cause it to be deposited upon the parking or terrace adjacent to and within approximately 18 inches of the near edge of the roadway in front of their premises and three feet away from any other object, including other solid waste containers.

b. As to residential premises approved for alley pickup, solid waste or solid waste containers shall be placed adjacent to the alley right-of-way and three feet away from any other object, including other solid waste containers.

c. No solid waste or solid waste containers shall be deposited by any person upon any sidewalk, crosswalk, or roadway, or upon any alley right-of-way, so as to obstruct or block pedestrian movement or vehicular traffic.

d. No person shall deposit solid waste or solid waste containers upon the parking or terrace of the street in front of premises more than 12 hours before the date designated for solid waste collection. No person shall allow solid waste containers to remain on the parking or terrace of the street in front of that person's premises for more than 12 hours after the date designated for solid waste collections.

e. The city manager is authorized and directed to promulgate regulations by which the city manager or his or her designee shall grant an exception to the street or alley collection points described in this subsection and shall provide back yard service for collection of solid waste containers at residential premises in which the persons residing therein have physical limitations which prevent them from placing their solid waste containers at the street or alley collection point.

f. No person shall place an appliance for collection unless such person shall have affixed to said appliance an appliance disposal sticker in a clearly visible location, and shall have scheduled the collection of said appliance in advance through the public works department at its 24-hour customer service center. Appliances shall not be placed for collection more than 12 hours prior to the scheduled collection time established by the public works department.

g. No person shall place an extra trash item for collection unless such person shall have affixed an extra trash sticker to such extra trash item prior to its collection.

h. No person shall place a large item for collection unless such person shall have affixed a large item disposal sticker to said item in a clearly visible location prior to its collection, and shall have scheduled the collection of said large item through the public works department. Large items shall not be placed for collection more than 12 hours prior to the scheduled collection time established by the public works department.

i. Solid waste will only be collected from a residential premises if it is placed for collection in a city-owned container billed to that residence, or if it is placed for collection as an extra trash item or a large item as provided in subsections g. and h. above.

(4) The number of containers to be collected per residential premises per week shall not exceed the number of city-owned containers billed to the residence and extra trash and large items with the appropriate stickers unless during specified periods by council resolution in response to council-perceived temporary needs or objectives or is permitted by a declaration of a collection emergency by the city manager.

(5) Any failure to comply with this section or sections 98-58 or 98-69 of this division by the owner of such residential premises shall relieve the city of its obligation to collect such solid waste therefrom which is not in compliance therewith as to type, preparation, volume or place of storage, but in all cases such solid waste from such premises as meets the requirements of such section shall be collected as provided in this section.

(6) No person, unless pursuant to contract with the city permitting that person to collect and remove rubbish and refuse or unless that person is a city employee acting under the direction of the city council and the city manager, shall collect or remove any rubbish or refuse which has been deposited or placed by another person on the parking or curb along the roadway adjoining the latter's premises for collection by the city as provided in city ordinances.

(7) Upon application by the owner of property, demonstrating that a particular property is unoccupied and uninhabitable due to disrepair; due to damage by flood, storm, or fire; or due to the fact that it is undergoing renovation or reconstruction, the director may temporarily suspend the collection of solid waste from such premises and direct that the property not be charged the monthly charge for solid waste collection service as provided in this division. Such application shall be made in writing to the public works department on the form provided by the department for that purpose. The applicant shall therein verify that the property is not occupied and shall identify the conditions that make it uninhabitable. The public works department may require verification of uninhabitability in the form of reports, orders, or permits issued by the community development department or the fire department. If the premises is unoccupied and uninhabitable due to flood, storm, or fire damage or due to renovation or reconstruction, the applicant shall be required to arrange for interim collection of damage or construction debris from the premises and to identify and verify the existence of those arrangements in the application. Collection services shall not be suspended for more than a period of one month, but such suspension shall be renewable monthly upon oral request for up to five additional months. No additional period of suspension shall thereafter be granted unless the owner makes reapplication for suspension of collection service as provided in this subsection.

(C62, § 52A-2; O.8074, 8896; C75, § 16-95; O.8987, 9382; C79, § 16-95; O.9906; C85, § 16-95; O.11,409, 11,499, 11,515, 11,563; C91, § 16-95; O.13,189, 14,064, 14,228, 15,664)

Sec. 98-55. Charges for collection service.

(a) A monthly collection fee shall be charged by the city and collected from each owner or occupant of a "residential premises" as defined in section 98-26 of this Code served by solid waste collection service as provided in section 98-54 of this division, except as to those owners or occupants of residential premises for whom a fee reduction is established in subsection (c) of this section. Said monthly fee shall be in payment for collection and disposal of solid waste as defined, and shall be collected in full each month from all owners or occupants of residential premises except as to those owners or occupants for whom a fee reduction is allowed as provided in subsection (c) of this section. The fee per month for city-owned solid waste containers, excluding yard debris containers, assigned to a residential premises shall be as follows: $15.20 per month for one city-owned 96-gallon wheeled container for the period of July 1, 2020—June 30, 2021 and $15.66 per month beginning on July 1, 2021, $14.13 per month for one city-owned 64-gallon wheeled container for the period of July 1, 2020—June 30, 2021 and $14.56 per month beginning on July 1, 2021, $13.06 per month for each additional city-owned 96-gallon wheeled container for the period of July 1, 2020—June 30, 2021 and $13.45 beginning on July 1, 2021, and $11.99 per month for each additional city-owned 64-gallon wheeled container for the period of July 1, 2020—June 30, 2021 and $12.35 beginning on July 1, 2021.

(b) The solid waste collection fee shall be billed to the "owner" as herein defined every month, payable in advance within 30 days from date of such billing.

(c) A fee reduction of $4.20 per month for one city-owned 96-gallon wheeled container for the period of July 1, 2020—June 30, 2021 and $4.66 beginning on July 1, 2021 and $4.13 per month for one city-owned 64-gallon wheeled container for the period of July 1, 2020—June 30, 2021 and $4.56 beginning on July 1, 2021 from the rates shown in 98-55(a) for the first container assigned to a residential premises (no reduction will be allowed for each additional container) shall be allowed and authorized by the city for each owner of a residential premises served by solid waste collection service who (1) as the record titleholder of the residential premises, has filed claim for tax reimbursement and has established eligibility for such reimbursement under the provisions for property tax relief for elderly and disabled contained in the I.C. §§ 425.16—425.37, with reference to such residential premise, or as a renter of the residential premise, has filed a claim for reimbursement of rent constituting property taxes paid and has established eligibility for such State of Iowa Rent Reimbursement program under the provisions of I.C. §§ 425.18—425.37, with reference to such residential property; (2) has waived any right to confidentiality relating to all income tax information obtainable through the state department of revenue; and (3) has filed an application with the city reciting such facts and asking for the benefits of this provision subject to verification by the state department of revenue.

    (1) Such fee reduction shall be on a 12-month period basis, shall commence on the first day of the first month of the first monthly billing period following approval of the application therefor and shall be valid thereafter for a 12-month period unless the applicant is for any reason disqualified as a claimant under the I.C. §§ 425.16—425.37. In event of such disqualification, the owner's or renter's eligibility for fee reduction shall terminate at the termination of the billing period in which such disqualification occurs and shall be billed at the rate prescribed by subsection (a) of this section, unless and until the owner's or renter's qualification is reviewed and eligibility for such fee reduction is re-established pursuant to a new application to the city for the subject premises. In any event, each such application must be reviewed at least 30 days before the end of the 12-month period aforesaid and approved as aforesaid in order for such fee reduction to be effective for a succeeding 12-month period, and annually upon such schedule thereafter, failing which the eligibility for fee reduction shall automatically cease at the end of the current 12-month period. Fee reduction application forms shall be available at city hall in such form, manner and location as the city manager shall direct. Such applications shall be as informal as possible and may be made by the owner or renter of a residential

premises, or may be made on behalf of such owner or renter by any person or institution reasonably expected to act in accordance with the wishes and best interests of the owner or renter, as applicable.

(2) Termination of city allowance of fee reduction for any cause, other than loss of status as a qualified claimant for reimbursement under said act or by lapse of time as aforesaid, shall occur only by action of the city council after reasonable notice and hearing. Said notice shall identify the reason for loss of eligible status and shall be served in the manner of service of original notice at least ten days before date of hearing. Appeal to the courts shall be permitted the applicant in any manner allowed by the Iowa rules of civil procedure within time limitations as therein stated.

(d) The fee reduction per month per subsection (c) above shall be shown each month on the owner's or renter's billing statement for solid waste collection service.

(e) A fee of $1.00 shall be charged for each extra trash item sticker and a fee of $5.00 shall be charged for each large item sticker.

(f) A fee of $35.00 (seven $5.00 stickers) shall be charged for the sale of an appliance disposal sticker to cover the cost of collection, demanufacturing, and disposal of appliances as defined in section 98-26.

(g) Appliance disposal stickers, extra trash stickers, and large item stickers shall be made available at multiple retail locations, a listing of which shall be available at the public works department's 24-hour customer service center. The city manager shall direct the distribution of appliance disposal stickers, extra trash stickers, and large item stickers to retailers under such distribution and auditing procedures as the city manager shall establish upon the advice of the finance director. Such stickers shall be made available to members of the public at retail outlets at a cost not exceeding $35.00 for appliance disposal, $1.00 for extra trash, and $5.00 for large items. The city manager shall make said stickers available only to retailers who agree to market same at the above indicated retail price.

(h) The owner of a multiple-family dwelling with four separate living units or family quarters may, upon prior arrangement with the director with respect to day and location of collection, verification of number of units, and execution of a hold harmless agreement in favor of the city, arrange for city collection and disposal of solid waste placed by residents of such multiple-family dwelling in one or more dumpsters of not more than eight cubic yards capacity each. Such placement and collection of solid waste shall in all other respects be conducted as provided in section 98-54 of this division. A fee of $9.45 per dumpster per month for the period of July 1, 2020—June 30, 2021 and $9.73 beginning on July 1, 2021 shall be charged by the city and collected from the owner or owners of such multiple-family dwelling, which fee shall be in addition to the per unit solid waste collection and disposal fee charged as provided in (a) above.

(i) The owner or occupant of a residential premises may request a one-time container exchange for a change in container size free of charge. Such free of charge exchange will be allowed for both a solid waste container and a yard waste container. For each additional exchange, there will be a $25.00 service fee.

(j) Upon request of the owner, the director of public works is authorized and empowered to except from city solid waste collection a residential premises that is adjacent to a multifamily residential premises if such dwellings are commonly owned, are not separated by a street or public alley, and were being served by private solid waste collection as of January 1, 2005. When either the multifamily residential premises or the adjacent residential premises change ownership the residential premises shall be served by city solid waste collection.

(C62, § 52A-28; O.8074, 8512, 8885; C75, § 16-96; O.9006, 9359; C79, § 16-96; O.9733, 10,170, 10,344; C85, § 16-96; O.11,015, 11,099, 11,364, 11,618; C91, § 16-96; O.13,702, 14,064, 14,144, 14,228, 14,448, 14,733, 15,664, 15,772, 15,895, 16,158)

Editor's note(s)—Ord. No. 15,772, § 2, states: This ordinance shall be in full force and effect as of July 1, 2019.

Sec. 98-56. Assessment of unpaid charges.

The collection of solid waste, as provided by this division, from residential premises and maintenance of the availability of such service, whether or not such service is used regularly or at all by the owner of such residential premises, is declared a benefit to the premises at least equal to the monthly charges specified in section 98-55 of this division. If the owner of a residential premises fails to pay the monthly charge as provided in section 118-159 of this Code, the monthly charge may be assessed as a lien against the property benefitted as provided by I.C. § 384.84.

(C62, § 52A-29; O.8074; C75, § 16-97; O.9006; C79, § 16-97; C91, § 16-97; O.13,166)

Sec. 98-57. Billing procedure and collection of delinquent accounts.

The procedures for billing of the solid waste collection charges provided in section 98-55 of this division and for the collection of delinquent solid waste collection charges shall be as provided in sections 118-158 and 118-159 of this Code.

(C62, § 52A-30; O.8074; C75, § 16-98; O.9006; C79, C91, § 16-98; O.11,696, 13,166)

Sec. 98-58. Container specifications.

(a) Only city-owned containers provided by the city shall be used for the placement of solid waste for collection by the city. City-owned containers shall be assigned to a particular residential premises and shall remain at that residential premises in the event the owner or occupant moves. If a city-owned container is lost or stolen from a residential premises, the owner or occupant of the residential premises shall report such event to the public works department's 24-hour customer service center. In the event of loss or theft, a replacement city-owned container or containers shall be provided to the owner or occupant at the owner's or occupant's cost.

(b) Disposable cardboard boxes not larger than 24 by 24 by 36 inches may be used for extra trash or yard debris not weighing more than 40 pounds. Tree limbs and brush placed for collection as yard debris may be securely tied in bundles not larger than 48 inches long and 18 inches in diameter and weighing not more than 40 pounds.

(c) Extra trash and large bulky items such as furniture, large tree limbs, automobiles and major parts thereof and appliances that cannot be reduced to fit approved containers shall not be collected; provided that special arrangements can be made for the collection of appliances, extra trash, and large items as provided in section 98-54(3)g.

(C62, § 52A-3; O.8074, 8180; C75, § 16-99; O.8987, 9577; C79, C91, § 16-99; O.13,350, 14,064, 14,228)

Sec. 98-59. Treatment pending collection.

All solid waste consisting of waste animal and vegetable matter, which may attract flies, dogs or rodents, shall be drained of all excess liquid, wrapped in paper or disposable containers, and placed or stored, until collected, in covered suitable containers as described in section 98-58 of this division.

(C62, § 52A-4; O.8074; C75, C79, C91, § 16-100)

Sec. 98-60. Accumulations hazardous to health.

No person shall permit to accumulate on any premises, improved or vacant, or on any public place quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.

(C62, § 52A-5; O.8074; C75, C79, C91, § 16-101)

Sec. 98-61. Accumulations hazardous to property.

No person shall permit to accumulate quantities of solid waste within or close to any building, unless the waste is stored in containers in such a manner as not to create a health or fire hazard.

(C62, § 52A-6; O.8074; C75, C79, C91, § 16-102)

Sec. 98-62. Permit to haul waste.

No person shall engage in the business of removing or hauling residential, commercial or industrial solid waste from the premises of others, other than those resulting from construction or demolition activities, unless such person shall have first applied for and received a permit to do so from the city. Such permits shall be issued and renewed on an annual basis for a fiscal year commencing July 1 of each year.

(C62, § 52A-7; O.8074; C75, § 16-103; O.9137; C79, § 16-103; O.10,489; C91, § 16-103)

Sec. 98-63. Waste hauler's permit requirements.

(a) An application for a permit required by section 98-62 of this division shall be filed with the city clerk and shall contain the following information:

(1) The name and address of the applicant.

(2) The vehicles to be used.

(3) General information concerning the routes to be traveled and places to be served.

(4) A statement by the applicant that all of the requirements of this section 98-63, as well as other applicable requirements of this chapter, shall be complied with at all times during the period of the permit.

(b) No permit shall be issued or renewed unless the vehicles to be used meet the following requirements:

(1) Construction of the vehicles shall be such that rubbish or bulk material loaded therein or transported thereby shall be securely contained. A truck with open sides, such as a stake-body truck, must have some type of paneling installed on the interior of the stakes so as to prevent the loss of any rubbish or bulk material. Plywood or hardboard may be used to line the interior; however, large sections of cardboard will not be acceptable.

(2) All vehicles shall be equipped with a permanently attached covering over the bed of the vehicle or with a suitable tarpaulin. The tarpaulin must be constructed in such a manner so that both sides and the end of the tarpaulin can be securely tied down or loaded so as to prevent the rubbish or bulk material from being blown or allowed to escape.

(3) All vehicles other than stake-body types must be equipped with a tailgate of rigid construction of at least 1½ feet which, when closed, shall securely hold and contain all rubbish and bulk material.

Acceptable paneling as indicated in this subsection may be used in lieu of a tailgate only on stake-body vehicles.

(4) Any compaction-type vehicle must be equipped with a tightfitting tarpaulin or other means to prevent rubbish or other material from being blown or allowed to escape from the hopper area.

(c) All vehicles licensed under this section shall prominently display the permit number on the upper or lower left corner of the windshield of the vehicle upon a decal to be furnished by the city.

(C79, § 16-103.01; O.10,489; C85, § 16-103.01; O.11,548; C91, § 16-103.01; O.15,297)

Sec. 98-63.5. Permit fees.

(a) An applicant for a waste hauler's permit shall submit the annual permit fee and the fee for each vehicle to the city clerk at the time of filing the application.

(b) An applicant who files for renewal less than 30 days prior to the date of permit expiration shall pay a late fee at the time of filing the application.

(c) If the application is denied or if the application is withdrawn before final action is taken by the city clerk, a portion of the application fee shall be retained by the city clerk for the cost of administration.

(d) The permit fee, its nonrefundable portion, the fee for each vehicle, and the late fee for a waste hauler's permit shall be in the amounts set in the schedule of fees adopted by the city council by resolution.

(O.14,187, 15,297)

Sec. 98-64. Waste hauler's liability insurance.

(a) No permit required by section 98-62 of this division shall be issued or renewed until the applicant shall have obtained insurance coverage from an insurance company licensed to do business in the state, providing insurance coverage of minimum liability in the amount of $1,000,000.00 combined single limit each for general liability and for automobile liability. A policy written with an umbrella form will be acceptable. Insurance coverage must be maintained for the period the permit is in effect.

(b) The applicant shall furnish evidence to the city of the required insurance coverage by submitting a certificate of insurance. The certificate of insurance shall provide that the insurance cannot be cancelled or terminated until 30 days' notice by registered mail of such cancellation or termination shall have been given to the city.

(C79, § 16-103.02; O.10,489; C91, § 16-103.02)

Sec. 98-65. Permit exemptions.

Vehicles owned and operated by the authority or the city or operated under contract to either shall be deemed to be engaged in a public service function exempt from the requirements of section 98-62 of this of this division.

(C62, § 52A-8; O.8074; C75, § 16-104; O.8987; C79, C91, § 16-104; O.13,350)

Sec. 98-66. Suspension and revocation of permits.

(a) Any permit issued pursuant to this division may be revoked for violations of this division. No revocation shall issue except upon notice delivered to the permittee by mailing the notice in the regular mail addressed to

the permittee at the address listed on the application a minimum of ten days prior to the date set for the hearing before the city manager or his or her designee. Such notice shall inform the permittee of the time, date and place of the hearing; the purpose of the hearing; and shall set out the reasons therefor. However, if a violation of this division is of such nature that the violation is deemed to be an immediate hazard by the public works director and such report is submitted to the city clerk in writing, the city clerk shall be authorized to temporarily suspend the permit until notice can be given and a hearing held.

(b) If, after such a hearing, the city manager or his or her designee makes a finding based on substantial evidence that a violation of this division did in fact occur as alleged, the city manager or his or her designee may continue suspension of or may revoke the permit; the determination of whether to revoke such permit shall be in the discretion of the city manager or his or her designee and shall be dependent upon the circumstances surrounding the violation and its severity.

(c) The decision of continued suspension or revocation made by the city manager or his or her designee may be appealed to the city council. In order to appeal such decision, written notice of appeal must be filed with the city clerk within three days after receipt of the decision. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the decision of continued suspension or revocation of the city manager or his or her designee.

(d) The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled at the next regular council meeting, if such notice is received by 5:00 p.m. on the Wednesday before the next regular council meeting. If notice is not received by the designated time, the hearing will be scheduled for the next following council meeting, if notice is received within three days after receipt of the decision by the city manager or his or her designee. The hearing may be continued for good cause. The hearing shall be confined to the record made before the city manager or his or her designee and the arguments of the parties or their representatives, but no additional evidence shall be taken. After such hearing the city council may affirm or reverse the order of the city manager or his or her designee. Such determination shall be contained in a written decision and shall be filed with the city clerk within three days after the hearing or any continued session thereof.

(e) If the city council affirms the action of the city manager or his or her designee continuing the suspension or revocation, the city council shall so state and order in its written decision.

(f) A permittee whose permit has been revoked shall not be eligible for another permit to haul waste for a period of two years.

(C62, § 52A-27; O.8074; C75, C79, C85, § 16-105; O.11,452; C91, § 16-105)

Sec. 98-67. Protection of hauling vehicles.

No person shall haul any solid wastes upon the city streets, alleys or public places in any manner except in a vehicle or container so equipped as to prevent the blowing or leakage or dropping off of any of the contents on such public streets or on private property therein.

(C62, § 52A-9; O.8074, 8464; C75, C79, C91, § 16-106)

Sec. 98-68. Authorized disposal sites.

No person licensed under section 98-62 of this division shall haul or cause to be hauled any solid waste material of any kind, other than that resulting from construction or demolition activities, to any disposal place or site or area other than the following:

(1) A sanitary disposal site operating under permit from the state department of natural resources pursuant to I.C. ch. 455B; or

(2) A solid waste transfer station licensed and operating pursuant to section 98-76 of this division.

(C62, § 52A-10; O.8074; C75, § 16-107; O.9137; C79, C91, § 16-107; O.13,350)

Sec. 98-69. Hazardous substances and hazardous wastes.

No person shall deposit in a solid waste container or otherwise offer for city collection any hazardous substance or hazardous waste as defined in section 98-26. Hazardous substances and hazardous wastes shall be transported by the owner, responsible person or his or her agent to a place of safe deposit or disposal as prescribed by the rules and regulations of the state department of natural resources. Persons improperly disposing of hazardous solid waste materials by placing them for collection at the curb shall be responsible for all costs incurred by the city on account thereof, including but not limited to costs associated with injury to city or authority personnel, damage to city or authority property, or cleanup of city or authority property or equipment.

(C62, § 52A-11; O.8074; C75, § 16-108; O.8987, 9137; C79, § 16-108; O.9835; C91, § 16-108; O.13,350)

Sec. 98-70. Littering.

No owner shall throw, rake, deposit, place, drop or spill yard debris, as defined in division 1 of this article, litter, solid waste, waste material or other foreign material upon the streets, sidewalks, or other public rights-of-way or city property except as provided in sections 98-58 and 98-115 of this division. In any proceedings charging a violation of this section, proof that the particular violation described constitutes a violation of this section, together with proof that the violator was the owner of the residential dwelling, commercial establishment and/or real estate from which the yard debris, litter, solid waste, waste material or other foreign material was removed, shall be deemed to create a rebuttable presumption that such violator was the party violating this section.

(C62, § 52A-12; O.8074; C75, C79, C91, § 16-109; O.13,350, 14,792)

Sec. 98-71. Disposition of inert materials.

The prohibitions contained in this division shall not apply to the placing of inert wastes, not potentially injurious to health or the public welfare, where permission to place such materials has been obtained from the owner or responsible agent, nor to the filling in or grading of property with earth, mud, ashes or similar materials providing such actions are in compliance with all other applicable local and state laws.

(C62, § 52A-15; O.8074; C75, C79, C91, § 16-112)

Sec. 98-72. Disposition in accordance with instructions.

(a) Each application for a permit to haul solid waste under section 98-62 of this division and each application for license for a transfer station under section 98-76 of this division shall contain an undertaking to the effect that, as a condition of the grant by the city of such a permit or such a license and the validity of such permit and such license once granted, such applicant shall deliver or cause to be delivered all solid waste coming within his or her control to a sanitary disposal site operating under permit from the state department of natural resources pursuant to I.C. ch. 455B.

(b) Failure on the part of any such permittee under section 98-62 or the licensee under section 98-76 of this division to in fact cause such solid waste to be so delivered shall be cause for the city council on reasonable notice and hearing to revoke such permit or license.

(c) If a permit or license issued is revoked by the city council for such cause, the permittee or licensee shall be ineligible for reinstatement or renewal thereof or for a new permit or license for a period of 12 months from the date of such revocation.

(d) Each person charged with responsibility for the ultimate disposition of solid waste, other than that collected under the city residential solid waste collection program, shall cause the solid waste to be delivered to a permittee or licensee as described in this division. Failure to do so shall constitute a violation of this division.

(C62, § 52A-16; O.8074; C75, § 16-113; O.9137; C79, C91, § 16-113; O.13,350)

Sec. 98-73. Materials excluded from agency deposit sites.

At the discretion of the authority, certain materials may be excluded from those solid wastes which may be deposited at an authority landfill site. These excluded materials may include junk automobile bodies and similar bulky objects which may require special processing prior to disposal; trees and tree limbs, unless they have been cut into pieces not exceeding ten feet in length; burning materials or materials containing hot or live coals; hazardous materials; and other materials which the agency deems necessary to exclude. However, hazardous materials may be deposited upon the receipt of written permission of a responsible official or attendant of the agency and subject to any special instructions issued with such permission. Hazardous material shall include explosive materials, materials contaminated by infectious or contagious disease, fly ash or other fine or powdery material, and other material which may present a special hazard to landfill personnel, equipment or to the public.

(C62, § 52A-17; O.8074; C75, C79, C91, § 16-114; O.13,350)

Sec. 98-74. Unauthorized disposal sites.

No person shall operate or permit the operation on his or her property of a disposal site in the city for the disposal of solid waste of any kind, excepting rubble, from any source other than construction or demolition activities.

(C75, § 16-115.01; O.8986; C79, C91, § 16-115.01)

Sec. 98-75. License required for private landfill sites for construction or demolition materials.

(a) No person shall operate or permit the operation on his or her property of a disposal site in the city for the disposal of solid waste from construction or demolition activities unless such person shall have first applied for and received a license to do so from the city. Such a license shall be issued by the city council upon application by such person filed with the zoning enforcement officer; must be accompanied by a conditional use approval by the city board of adjustment, and a state permit issued by the appropriate state agency to conduct a construction or demolition materials disposal operation on the site in question; must demonstrate full present and contemplated compliance with the specific subsections of this section and the operational details and physical site proposals contained in plans accompanying the application, as well as the ability to do so; and shall be subject to annual renewal by the city council as set forth in this section. In reviewing the demolition landfill site application, the city council must weigh the need for such landfill to economically dispose of demolition and construction rubble against the inherent hazard, evaluated on the information and criteria in this subsection, and with professional advice as required. Such need must likewise be weighed against the potential for site pollution or danger to persons or property who might predictably have direct or

indirect contact with the site. To merit approval for licensing, such proposed operation must be demonstrated by the application to be operationally feasible and to be substantially free of negative environmental effect as it is proposed to be operated upon the site proposed. The application for a license to operate a disposal site for the disposal of solid waste from construction or demolition activities shall be accompanied by the documentation described in this subsection. Plans for construction and demolition landfills shall be prepared under the direct supervision of a registered engineer in conformity with I.C. ch. 542B. Such requirement shall not preclude the inclusion in the application of reports of geologists, architects, landscape architects, or such other disciplines as may be necessary or desirable to substantiate proposals contained in the application. The plans shall show conformance to the following requirements:

(1) *Location of site.* The location of the site shall conform to the following:

a. The site shall be located outside of floodplain or riverfront land unless such requirement is waived by the appropriate state agency.

b. If the site is within 1,000 feet of a federal or state highway or major city thoroughfare, the site must be satisfactorily screened by natural objects, planting, fences or other.

c. The site shall be at least 1,000 feet from any existing well that draws water for human or livestock consumption unless hydrologic conditions are shown to be such that a greater or lesser distance is proper.

(2) *Zoning and land use.* The application will be accompanied by a copy of the conditional use approval issued for such operation on the site by the city board of adjustment and the plan submitted with the application shall:

a. Be accompanied by a map showing all zoning within 1,000 feet surrounding the site. The plan shall also indicate the land use proposed for the site after the filling is completed, although such indication shall not be binding upon the city. A proposed land use which will be an impediment to the city's execution of its general plan will not be approved.

b. Indicate the land use shown for the site area in the future in the general plan for the city.

(3) *Site plan.* The following particulars shall be included in maps of the site plan, as set forth in this subsection, and shall accompany the application:

a. A map of the disposal site and immediate surroundings, on which a north arrow and scale of drawing are indicated. Generally, a scale of less than one inch to 100 feet will not be approved.

b. The boundaries of the disposal site shall be shown thereon with sufficient data, including legal description, that a land surveyor can easily locate the boundary. Natural and manmade monuments indicating the boundary shall be noted. Where the site is located in an undeveloped area, four-inch boundary markers at least six feet high and painted a bright color shall be used to identify the boundary so that field inspection teams can easily identify the site.

c. Two-foot contours of the existing terrain shall be shown thereon.

d. All existing utilities, including storm and sanitary sewers, which lead up to or cross the site shall be shown thereon.

e. Existing and future drainage shall be shown thereon along with any proposed storm sewers.

f. The location of the drill holes required by subsection (a)(6)a, of this section shall be shown thereon.

g. Two-foot contours of the final proposed terrain shall be shown on a separate drawing.

(4) *Vicinity map.* A map showing the area in the vicinity of the site, which shall be known as the vicinity map, shall be submitted, of a scale of one inch to 600 feet or less. The area covered by the vicinity map shall be sufficient to contain the following:

a. Location of test holes for the monitoring of water quality and the findings from each.

b. Streets and street names, as well as all existing public rights-of-way on and adjacent to the site.

c. The nearest fire hydrants. Generally, if there is not a fire hydrant adjacent to the entrance drive and within 300 feet of the active portion of the landfill site, a fire hydrant shall be so installed and connected with an appropriate extension of the water main. If covering and compacting is performed daily or if other equivalent means of providing fire protection are available, this requirement may be waived by the city council (see subsection (a)(7)d of this section).

d. The haul road routes from the nearest city truck route.

e. Proposed screening of the site from highways, streets, parks and residences and other amenities, as well as the schedule of installation of such; such screening shall meet the requirements of chapter 134 of this Code and shall have been demonstrated to and approved by the board of adjustment.

f. All private wells within 1,000 feet of the site shall be located and identified thereon.

g. All occupied homes and buildings on the site or within 1,000 feet of the boundaries thereof shall be shown, with their addresses and uses indicated, by color coding or otherwise.

(5) *Traffic.* The haul routes shown in the plan shall be reviewed by the department of engineering and the chief civil engineer, who shall make recommendations thereon to the city council. Such haul routes shall be chosen to avoid undue hardships to residents living adjacent to them and to minimize the likelihood of premature deterioration of city streets so chosen.

(6) *Soils and geology.*

a. The plans shall contain a description of the drill holes shown on the site plan, which shall be sufficient in number to prepare geological cross sections of the site, to facilitate a determination of the acceptability of the site location.

b. The water table depth and bedrock depth shall be indicated. If the bedrock is excessively deep, it may be estimated.

c. A soil report shall be provided which indicates the acceptability of the soil on the site for cover material and the stability of the slopes after the fill is complete. The vulnerability of the soil classification to erosion shall also be indicated.

(7) *Operating site.*

a. The estimated active life of the site and the total cubic dimensions of the area to be filled shall be indicated.

b. The volume of construction and demolition material expected annually and on the peak days shall be indicated.

c. The number, size and shape of cells of demolition material shall be indicated.

d. The approximate depth and type of cover material shall be indicated. The volume of cover material needed for the entire site shall be indicated as well as the source and soil classification of the cover material and frequency of covering. Once-a-week compacting of demolition material and covering with dirt will be acceptable, provided a bulldozer with a blade, operator on call, and a stockpile of cover material are available at all times on the site if a fire occurs. More frequent

covering and compacting may be required by the city if it is deemed necessary to abate a nuisance and shall be mandatory if the requirements of subsection (a)(4)c of this section for fire hydrants are not met.

e. The times at which the gates will be open as well as provisions for maintaining the fence at locations required in this section shall be indicated.

f. The intended continuing vector control, principally rat abatement and mosquito abatement, shall be indicated.

g. The personnel and equipment planned to operate the site, and the hours and days of the week when they will be on the site, shall be indicated.

(8) *Summary of environmental controls.* Expected environmental impact problems, with specific treatment or controls intended to eliminate or mitigate negative effects of each, shall be listed.

(9) *Insurance.*

a. The applicant shall file a certificate of insurance evidencing the issuance to the applicant of liability insurance which shall protect the public and any and all persons from injury which may be sustained because of the operation or condition of the landfill and that the applicant carries insurance which meets the requirements of the state worker's compensation law. Proof of such insurance shall show a minimum cancellation time of ten days and shall embody a requirement that the city shall have a right to such notice before such cancellation can become effective. The proof shall specify evidence of the following forms of insurance protection:

1. Liability insurance covering all operations performed by the licensed applicant and all persons in the licensed applicant's direct employment.

2. Public liability insurance covering all operations performed by any subcontractor or independent contractor to whom a portion of the operations may have been assigned or which in the future be assigned or by any person or legal entity acting for or on behalf of the licensed applicant at or on the site.

3. Motor vehicle bodily injury insurance and property damage liability insurance on motor vehicles employed on the site, whether or not owned by the licensed applicant or by either the subcontractors or independent contractors under contract to the licensee or by any other person or legal entity acting for or on behalf of the licensed applicant at or on the site.

b. The main protection shall be as follows:

1. Public liability insurance, $250,000.00 per person, $500,000.00 per accident.

2. Motor vehicle bodily injury, $250,000.00 per person, $500,000.00 per accident.

c. The city shall be named as an additional insured under all liability policies without expense to it.

(b) *License fee.* An annual license fee of $800.00 payable to the city treasurer shall accompany the initial application for the license and each application for renewal of the license.

(c) *Renewal requirements.* An application for renewal need comply with the documentation requirements of subsection (a) of this section only if there has been a substantial change in the conditions or circumstances on or off the site which significantly affects the proposed operation or its effects during the proposed renewal period, except that a showing must be made in such application that required insurance is in force and has continued in force during the current license year. The application for such renewal must specifically negate or affirm the existence of any such circumstances or conditions and shall be documented accordingly. The application for renewal must also be accompanied by a showing of a current permit, issued by the

appropriate state agency, for the operation of the construction or demolition materials landfill site. The zoning enforcement officer, upon receipt of such application for renewal, shall process the application as though it were an initial application for the license and shall report his or her findings and recommendations thereon, which shall be reviewed by the city council before issuance of the renewal.

(d) *Site accessibility.* The location of the fence and gates, which shall be provided to exclude people from the active fill site, shall be shown. They shall be located to prevent illegal dumping, children from playing on the site, and debris from being blown off the site. The fence shall be at least six feet high and composed of a metal fabric, and it shall comply with all street intersection setback requirements. The fence shall be constructed before landfill operations begin. For purposes of this subsection, the term "active fill site" shall mean that portion of the land covered by the license which is in fact regularly receiving waste, whether or not at the instance of the applicant. The applicant shall maintain any unfenced area free of solid waste, and in the event of accumulation of waste upon or abutting the site, the director of building may require the applicant to install such further fencing as can ensure that the then-active remainder of the site shall remain free of unauthorized or improper accumulation of solid waste.

(e) *Signs.* A prominent legible sign shall be provided at all site entrances indicating the name of the site owner and operator and emergency telephone numbers.

(f) *Public agencies.* Neither the city nor any other public agency shall be required to obtain the license required by this section, but each such public body shall file with the council before beginning operation and annually thereafter evidence of substantial compliance with all subsections of this section except the requirements of subsections (a)(2), (a)(9), and (b) of this section. It is, however, specifically provided that such exemption from licensing shall not operate to exempt the city or other public agencies from any other specific requirements of law relating to or regulating such operation to which such operation would be otherwise subject.

(g) *Plan content mandatory.* The operational details and physical site proposals contained in the plans filed with an application which has been approved by the city council shall be obligatory and binding upon the licensee, who shall conform to each such detail and proposal unless specifically relieved of such conformance by the city council.

(h) *Revocation or denial of license renewal.* If there is a substantial failure on the part of the licensee to conform to the requirements of state or federal statutes or regulations or the requirements set out in this section, as well as those made obligatory and binding upon the licensee because of their inclusion in the application and approval by the city council or other city ordinances, the city manager shall report the noncompliance to the city council, which shall set a public hearing thereon and direct that the notice of the time, date and place of the public hearing and of the city manager's report be given to the licensee. Such hearing shall occur not less than ten days after such notice has been mailed to the licensee at the address shown in the application or such other address as has been provided by the licensee during the period of the license. If, upon such hearing, the city council shall find substantial noncompliance by the licensee with any of such requirements, the city council may revoke the license or, if such determination is made while an application for renewal is pending, may deny renewal of the license. Notice of such revocation or denial following such hearing may be either by formal notice to the licensee at the appropriate address or by so advising representatives of the licensee personally present at such hearing or by any other means reasonably calculated to apprise the licensee of such revocation or such denial. No person whose license shall have been revoked or the renewal thereof denied pursuant to this section and no successors or assigns or other legal entities in which such person shall have a substantial interest may obtain a license pursuant to this section within the city for a period of two years from the date of cessation of activities at such landfill site pursuant to such revocation or denial. The operation of a disposal site without having a presently valid license to do so shall be prohibited.

(C75, § 16-115.02; O.8986, 9153; C79, C91, § 16-115.02; O.11,776, 13,013, 13,350, 15,819)

Sec. 98-76. Transfer station license.

(a) *Required.* No person shall operate or permit the operation on his or her property of a transfer station in the city unless such person shall have first applied for and received a license to do so from the city. A license to operate a transfer station shall be issued by the city council upon application filed with the zoning enforcement officer. The application must be accompanied by any state permit required by state law or regulation and issued by the appropriate state agency to conduct a transfer station operation on the site in question; must demonstrate full present and contemplated compliance with the zoning regulations in chapter 134, and the specific subsections of this section and the operational details and physical site proposals contained in plans accompanying the application, as well as the ability to do so; and shall be subject to annual renewal by the city council as set forth in this section. In reviewing such application, the city council must weigh the need for the transfer station against the potential for site pollution, danger to persons or property likely to have direct or indirect contact with the site, the feasibility of the operation, the likelihood of freedom from negative environmental effect of such operation, and such other factors as shall reflect the public interest in balance against the interests of the applicant to operate such a facility on the site in question.

(b) *Information required and site plans.* The application for a license to operate a transfer station shall be accompanied by plans prepared under the direct supervision of a registered engineer in conformity with I.C. ch. 542B. The site as shown on the plans shall physically conform to the following requirements, and the application shall contain either sufficient written information to show such conformity or it shall be shown by depiction of physical detail on the plan, as applicable:

(1) *Site.* The site shall be located outside floodplain or riverfront land unless such requirement is waived by the appropriate governmental agency. The boundaries of the site shall be shown on the plan with sufficient data, including legal description, that a land surveyor can easily locate the boundaries. Two-foot contours of the existing terrain shall likewise be shown on the plan. Proposed screening of the site from highways, streets, parks, residences and other amenities, as well as the schedule of installation of such, shall be shown; such screening shall meet the requirements of chapter 134 of this Code and shall have been demonstrated to and approved by the board of adjustment. The site shall be enclosed with a chainlink fence not less than six feet in height, which fence shall completely surround all portions of the site intended to be used in connection with the operation of the transfer station. The location of such fence and of the access gates through such fence shall be shown on the plan.

(2) *Permits.* The application will be accompanied by a copy of the conditional use approval for such operation by the board of adjustment and by a copy of the permit issued by the applicable state agency, each approving the operation of a transfer station on the site.

(3) *Vehicular travel.* The plan shall show the areas on the site over which haul vehicles and transfer equipment will travel. Such areas shall be hard surfaced, and the thickness and composition of such surfaces shall be shown on the plans. Barricades of a semipermanent nature, affixed to the ground, shall be placed to prevent vehicular travel on unsurfaced areas on the site; the location of such barricades shall be shown on the plan. The haul road routes from the nearest city truck route shall be shown and identified on the plan. Such routes shall be reviewed by the department of engineering and the chief civil engineer, who shall make recommendations thereon to the city council. Such haul roads shall be chosen to avoid undue hardship to residents living adjacent to them and to minimize the likelihood of premature deterioration of city streets so chosen.

(4) *Unloading area.* All unloading, compacting and transfer activities shall be conducted within a fully enclosed structure. Each such structure shall be clearly depicted on the plan, with dimensions, in such fashion as to clearly show the type and location of equipment, the proposed routing of unloading and transfer vehicles, all vehicle entrance and exit facilities to and from such structure, and the waiting area

for unloading vehicles, which shall be sufficient to accommodate expected traffic. Such structures and waiting area shall be of sufficient size and appropriate design as will ensure that the volume of vehicles expected on site at any one time can be accommodated without spillover on surrounding streets.

(5) *Drainage and sewers.* Floor surfaces in each unloading, compacting and transfer structure shall be so constructed that they can be cleaned by flushing and that they will permit the draining of liquids without ponding; all such floor surfaces shall be equipped with floor drains or a sump pump and with a trap or other mechanical device which shall prevent the passage of solids, which system shall be connected to a sanitary sewer. A storm drainage system for the site shall provide adequate storm drainage with minimum ponding and shall connect to a storm sewer. All interior drainage lines from the unloading, compacting and transfer areas as well as other drainage lines within the site shall be adequate to handle volumes of water and liquids which may be expected. All drainage and sewer systems, floor drains, floor surface construction and locations of connections to sewers shall be clearly identified in the plan, showing dimensions and composition where appropriate.

(6) *Sanitation and environmental control.* All solid waste shall be confined to unloading, compacting and transfer structures, and all solid waste remaining at the transfer station at the end of each day shall be stored in leakproof, flyproof, and rodentproof containers. Vector control, principally rat abatement and mosquito abatement, shall be the responsibility of the operator. The transfer station site shall be kept in a suitably clean and sanitary condition at all times. The application shall list the provisions at the site and the schedule for cleaning vehicles, structures and grounds, as well as the intended continuing vector control.

(7) *Fire prevention.* Burning of solid waste, either open or controlled, is prohibited at the transfer station site. If a fire hydrant is not located adjacent to the property and within 300 feet of the unloading, compacting and transfer structure, a fire hydrant shall be so installed and connected to an appropriate extension of the water main. The location of the nearest hydrants to the transfer station shall be shown on the plan, as shall such installations and extensions, where applicable.

(8) *Equipment.* The transfer station shall be so designed and maintained that the operational failure of one component part will not result in a total shutdown of the operation. An inventory of the equipment to be used in connection with the unloading, compacting and transfer operation shall be contained in the application, as well as a list of backup equipment available or, failing direct availability, the sources from which such equipment shall be obtained in time of need.

(9) *Prohibited materials.* Sewage solids or liquids and hazardous wastes shall not be unloaded or accepted at the transfer station. Solid waste material of such bulk as cannot be accommodated by direct transfer shall likewise be excluded from the transfer station.

(10) *Recycling.* If the operation of the transfer station includes isolation, segregation and gathering of materials of a like or similar kind for salvage and reutilization by recycling, the equipment, methods and proposed operation in connection therewith shall be fully depicted and described in the application. Solid waste which is received at the transfer station site and which is not thereat separated for recycling may only be disposed of by hauling to a sanitary disposal project which has been approved by the appropriate governmental agency and which is legally operating. Scavenging at the transfer station site shall be prohibited, and all materials so separated and gathered for salvage and reutilization by recycling shall be retained in suitable containers as described in this division until removed by appropriate vehicles to off-site destinations.

(11) *Personnel and hours.* The personnel planned to operate the site, the times during which the gates will be open, and the hours and days of the week during which the site will be open to receive solid waste shall be indicated in the application. Appropriate signs meeting the requirements of chapter 134 of this Code for the zoning district in which located shall be located at all entrance gates, shall be lighted if appropriate, shall identify such hours, shall list prohibited materials, and shall contain such further

information as will ensure conformance of visitors to the site to the requirements of this section. An attendant shall be on duty at the site at all times when it is open for public use.

(12) *Insurance.*

a. The applicant shall file a certificate of insurance evidencing the issuance to the applicant of liability insurance which shall protect the public and any and all persons from injury which may be sustained because of the operation or condition of the transfer station and that the applicant carries insurance which meets the requirements of the state worker's compensation law. Proof of such insurance shall show a minimum cancellation time of ten days and shall embody a requirement that the city shall have a right to such notice before such cancellation can become effective. The proof shall specify evidence of the following forms of insurance protection:

1. Liability insurance covering all operations performed by the licensed applicant and all persons in the licensed applicant's direct employment.

2. Public liability insurance covering all operations performed by any subcontractor or independent contractor to whom a portion of the operations may have been assigned or which in the future may be assigned, or by any person or legal entity acting for or on behalf of the licensed applicant at or on the site.

3. Motor vehicle bodily injury insurance and property damage liability insurance on motor vehicles employed on the site, whether or not owned by the licensed applicant or by either the subcontractors or independent contractors under contract to the licensee or by any other person or legal entity acting for or on behalf of the licensed applicant at or on the site.

b. The main protection shall be as follows:

1. Public liability insurance, $250,000.00 per person, $500,000.00 per accident.

2. Motor vehicle bodily injury, $250,000.00 per person, $500,000.00 per accident.

c. The city shall be named as an additional insured under all liability policies without expense to it.

(13) *License and renewal.* An annual license fee of $800.00 payable to the city treasurer shall accompany the initial application for the license and each application for renewal of the license. The provisions for renewal of the license for construction or demolition materials disposal sites shall likewise apply to the annual renewal of a transfer station license.

(14) *Public agencies.* Neither the city nor any other public agency shall be required to obtain the license required by this section, but each such public body shall file with the council before beginning operation and annually thereafter evidence of substantial compliance with all subsections of this section except the requirements of subsections (a) and (b)(12), (13) and (15) of this section. It is, however, specifically provided that such exemption from licensing shall not operate to exempt the city or other public agencies from any other specific requirements of law relating to or regulating such operation to which such operation would be otherwise subject.

(15) *Revocation or denial.* The provisions for revocation or denial of renewal of a license for construction or demolition materials disposal sites shall apply to the license and licensee of a transfer station.

(c) *Delivery of waste.* Every person operating a transfer station licensed under this section shall deliver or cause to be delivered all solid waste coming within the control of the transfer station to a sanitary disposal site operating under permit from the state department of natural resources pursuant to I.C. ch. 455B.

(C75, § 16-115.03; O.8986, 9137, 9153; C79, C85, § 16-115.03; O.11,363; C91, § 16-115.03; O.11,776, 13,013, 13,350, 14,471, 15,819)

Sec. 98-77. Conditions subject to abatement.

(a) If any private solid waste disposal operation within the corporate limits is found to be conducted in a way detrimental to the health and welfare of the public or contrary to this division, the city shall notify the owner of the land upon which such operation is being carried on and the operator thereof in writing of the objectionable conditions and give them a reasonable time, not less than ten days, to correct the condition.

(b) If the owner or operator or both fail to correct such conditions within such time, the city manager is authorized to seek abatement of such conditions as a public nuisance and to abate such nuisance in such manner as any court of competent jurisdiction may direct. The abatement shall be considered of benefit to the owner of the land, and the cost of such corrective action shall be chargeable to the owner. If not paid, the cost shall constitute a lien upon the premises and shall be assessed in the manner of a special assessment and collected in the same manner as general taxes as is provided by law.

(C62, § 52A-19; O.8074; C75, C79, C91, § 16-116)

Sec. 98-78. Authority disposal fees.

Gate fees paid to the authority for the use of the public solid waste disposal facilities shall be in accordance with the posted and published schedule of fees of the authority.

(C62, § 52A-24; O.8074; C75, C79, C91, § 16-118; O.13,350)

Sec. 98-79. Penalty.

Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a misdemeanor punishable by fine as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

(C62, § 52A-32; O.8074; C75, § 16-119; O.9137; C79, C85, § 16-119; O.11,030; C91, § 16-119; O.14,792, 14,798, 15,608)

Sec. 98-79.02. Administrative penalties—Notice of violations.

(a) The director of public works or his or her designated representative or any police officer is authorized to impose an administrative penalty upon any owner of any real estate who violates section 98-70 or 98-117(b). The administrative penalty for such violation shall be as provided in the schedule of administrative penalties adopted by the city council by resolution.

(b) Penalties shall be paid in full within 30 days of the issuance of the notice.

(c) Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to the violator by the director of public works or his or designated representative or any police officer. Service of the notice may be by regular mail or delivery in person. Such notice shall include:

    (1) A statement that the violator has a right to an administrative hearing regarding the violation;

    (2) A statement that the violator may file a written request for hearing as set forth in section 98-79.05. The request of hearing shall stay payment of the administrative penalty until the hearing is decided. If issuance of the notice of violation is upheld, the violator shall have 30 days from issuance of the hearing decision to pay the administrative penalty.

(O.14,792, 14,798)

Sec. 98-79.05. Administrative hearing.

A person to whom a notice of administrative penalty has been issued may request an administrative hearing for review of the finding that a violation occurred pursuant to the administrative appeal process set forth in chapter 3 of this Code by filing a written notice of appeal with the city clerk within ten business days after the date of the decision appealed from. Failure to timely file a written notice of appeal shall constitute a waiver of any right to appeal the decision.

(O.14,792, 15,664)

Sec. 98-79.07. Right of city to seek alternative relief.

The city is not precluded from seeking alternative relief from the court, including an order for abatement or injunctive relief, in the event that the city issues a notice of violation and/or files a municipal infraction for the same violation of this division.

(O.14,792)

Sec. 98-80. Exceptions.

Excepted from this division shall be those substances which might be considered solid wastes within the definitions of sections 98-26 but that retain their utility because of resource recovery operations conducted by or sponsored by the city; substances which lend themselves to waste stream reduction objectives under city programs; and substances, the ultimate disposition of which are governed by an approved facilities plan of the Environmental Protection Agency or an approved comprehensive plan of the state department of natural resources. Except as provided by subsection 98-76(d) of this division, the functions of the city and of others implementing such operations and programs under contract with or in concert with the city shall likewise be exempt from this division.

(C85, § 16-119.01; O.11,455; C91, § 16-119.01)

Secs. 98-81—98-111. Reserved.

DIVISION 3. RECYCLABLE MATERIALS AND YARD DEBRIS

Sec. 98-112. Title.

This division may be cited as the "recyclable materials and yard debris ordinance."

(C91, § 16-119.02; O.11,900, 13,405)

Sec. 98-113. Separation of yard debris required; establishment of recycling program for multifamily residential premises required.

(a) All persons owning or residing in a residential premises shall separate from solid waste generated at that premises all yard debris, as defined in this division, and shall dispose of the yard debris only as provided in this division.

(b) Every person owning or operating a multifamily residential premises shall establish a program for the collection and disposal of recyclable materials generated by the residents of all living units as provided in this division.

(C91, § 16-119.04; O.11,900, 13,405)

Sec. 98-114. Curbside recycling at residential premises and other approved premises.

(a) The city has established a voluntary single stream curbside recycling program, pursuant to which recyclable materials are collected at curbside in blue wheeled carts provided by the city for that purpose. Persons owning or residing in residential premises who elect to participate in the curbside recycling program shall place recyclable materials unsorted in the blue recyclable materials wheeled cart for bi-weekly collection.

(b) Consistent with the Metro Waste Authority's business recycling program, the city will allow owners of premises other than residential premises as defined in section 98-26 to elect to participate in the city's curbside recycling program if the solid waste collection provider for such premises does not offer recycling service and the premises is located on an established residential route. The property owner must verify that their current solid waste collection provider does not provide recycling services in order to participate. The city will charge a one-time $90.00 fee for the purchase of each recyclable materials cart. There will be a $40.00 annual fee (per cart) for the collection service. Such customers may purchase up to five recyclable materials carts.

(C91, § 16-119.05; O.11,900, 13,254, 13,405, 14,228, 14,919)

Sec. 98-115. Disposal of yard debris.

(a) The provisions of subsection 98-54(5) of this article to the contrary notwithstanding, yard debris will be collected from residential premises only in bags, containers, boxes, or bundles designated for that purpose as provided in this section. All persons owning or residing in residential premises shall dispose or provide for the disposal of yard debris by placing the yard debris for curbside collection by the city in separate bags, solid waste containers, or boxes designated as provided in subsection (b) of this section for the collection of yard debris, or in bundles, or, for single-family residences, by composting the yard debris upon such premises as provided in this section.

(b) Yard debris may be placed for collection at curbside on any regular collection day along with other solid waste in:

(1) A degradable bag bearing the Compost It! logo of the Metro Waste Authority and sold for that purpose by the Metro Waste Authority;

(2) A 64- or 96-gallon solid waste container with a green lid issued by the public works department designating such container for use for collection of yard debris;

(3) A cardboard box not larger than 24 × 24 × 36 inches or degradable store brand yard waste paper bag bearing a sticker issued by the Metro Waste Authority designating such box or bag for use for collection of yard debris; or

(4) A bundle of tree limbs or brush no larger than 48 inches long and 18 inches in diameter secured by twine or cord and Christmas trees each bearing a Metro Waste Authority yard debris sticker.

Such bags, containers, boxes, or bundles, when placed for collection, shall not contain more than 40 pounds of yard debris.

(c) There shall be no limit on the number of bags, containers, boxes, or bundles of yard debris that may be placed for collection on a single collection day, unless a limit is temporarily imposed by the city manager in an emergency situation.

(d) As an alternative to the placement of yard debris in bags, containers, boxes, or bundles for curbside collection, persons owning or residing in single-family residences may dispose of yard debris by composting, if such composting meets the following requirements:

(1) Composting may be conducted on the premises of a single-family residence only if the lot upon which the residence is located has an area of not less than 5,000 square feet.

(2) A compost pile shall not be located less than 50 feet from any neighboring dwelling.

(3) Each compost pile shall be fenced to screen it from view from neighboring residences and to prevent wind from scattering debris.

(4) Compost piles shall be established and maintained in accordance with recognized guidelines or those provided to the city's solid waste collection customers or otherwise published by the public works department; provided, however, that household food waste, scrap food or garbage shall not be composted with or added to a yard debris compost pile.

(5) Compost piles which are not properly fenced resulting in the dispersal of debris or which create odors resulting in complainants by neighboring residents or which, in the judgment of the public works department sanitation superintendent or the office of environmental health, create a risk of fire or other threat to public health, safety, or welfare shall, when so ordered by the sanitation superintendent or the office of environmental health, be removed from the premises and disposed of by curbside collection as provided in this section.

(6) Yard debris that did not originate upon or which was not collected from the residential lot upon which a compost pile is established shall not be added to such compost pile; provided, however, that a communal compost pile may be established and shared by two or more single-family residences upon approval by the sanitation superintendent.

(e) The city may refuse to collect any bag or container of yard debris if it contains material other than yard debris or if it contains more than 65 pounds of yard debris.

(C91, § 16-119.06; O.11,900, 13,254, 14,228, 14,733, 15,664)

Sec. 98-116. Recycling at multifamily residential premises.

(a) *Responsibility of owner or operator.* It shall be the responsibility of the owner or operator of a multifamily residential premises to establish an appropriate system for the separation and separate storage, collection, and disposal of recyclable materials consistent with recycling market requirements and with the requirements of this section. Compliance with the requirements of this section shall be a condition precedent to the issuance of rental inspection certificates for all multifamily residential premises in the city.

(b) *Bulk containers for storage and collection of materials.* The owner or operator of a multifamily residential premises shall provide or shall arrange for the provision of a sufficient number of bulk containers to store all recyclable materials which are generated by residents and which accumulate in the interval between collection of such materials.

(c) *Location of bulk containers.* Bulk containers for the storage of recyclable materials may be located on the premises of a multifamily residential premises or on property immediately adjacent thereto, provided that the permission of the owner of such adjacent property is obtained in writing and provided that the proposed location of the bulk containers meets all applicable zoning and planning and design requirements. Bulk

containers for the storage of recyclable materials may be located in designated parking stalls for the multifamily residential premises or in the setback or side yard thereof, provided that the owner or operator thereof obtains the permission of the director of the community development department or a design alternative, as applicable, therefor if such is required by chapter 135 of this Code. The location of bulk containers for the storage of recyclable materials shall not interfere with private or public sidewalks, walkways, or driveways; with roads, streets, or highways; or with entrances and exits of private or public buildings. The owner or operator of a multifamily residential premises shall ensure that each dwelling unit has reasonable access to all necessary bulk containers.

(d) *Construction and maintenance specifications for bulk containers.* Bulk containers for the storage of recyclable materials shall be durable, watertight and made of metal or plastic; shall be marked with the recycling symbol or other acceptable markings clearly indicating its intended use for storage of recyclable materials; and shall be acceptable to the director of the community development department. Bulk containers for the storage of recyclable materials shall have lids, if necessary, to avert a public nuisance and protect the marketing quality of recyclable materials. Such lids must remain closed except when recyclable materials are being placed in or removed from the bulk container. Bulk containers for the storage of recyclable materials shall be clearly marked with both the recycling symbol and with the type of material to be deposited in the container. Bulk containers shall remain on the premises at all times. The number of such containers shall be sufficient to handle the volume of recyclables which accumulate between collection intervals. The owner or operator of the multifamily residential premises shall maintain bulk containers in good repair and in a clean and sanitary condition, free of offensive odors and the presence of flies and vermin, and shall maintain the location of such bulk containers free of all litter and spillage of recyclable materials. If one or more of such bulk containers becomes filled with recyclable materials prior to the scheduled collection day, the owner or operator of the multifamily residential premises shall immediately collect and dispose of such materials or shall arrange for the immediate collection and disposal of such materials by its contract waste hauler, all as required in this section.

(e) *Collection of recyclable materials.* The owner or operator of a multifamily residential premises shall either collect and dispose of recyclable materials as provided in this section or shall contract with a waste hauler, licensed pursuant to sections 98-62 through 98-67 of division 2 of this article, for the collection and disposal of recyclable materials from the bulk storage containers located on the premises. If the owner or operator of the multifamily residential premises determines that he or she will not collect and dispose of recyclable materials generated at the premises, such owner or operator shall contract with a private waste hauler, licensed as provided in sections 98-62 through 98-67 of division 2 of this article, for the provision of such service. In that event, the owner or operator shall provide a copy of the contract with the private waste hauler to the city and shall promptly advise the city of any cessation of such service by the private waste hauler. When a private waste hauler provides solid waste collection services to a multifamily residential premises, the bulk containers for the storage of recyclable materials shall be located on such premises at a location agreed upon by the owner or operator of the premises and the private waste hauler.

(f) *Disposal of recyclable materials.* The owner or operator of multifamily residential premises or his or her authorized waste haulers shall provide for the disposal of recyclable materials at a qualified recycling facility approved for that purpose by the director of community development.

(g) *Enforcement.* This section shall be enforced by the community development department as part of its rental inspection program, and housing inspectors are authorized to inspect all multifamily residential premises for compliance with this section. Upon application of the owner or operator of a multifamily residential premises not exceeding ten units in size, showing inability to comply with the bulk container location requirements of this section due to lack of space for bulk containers and inability to obtain an off-site location therefor, the director of the community development department is authorized to waive the requirements of this section. Failure to comply with this section shall be grounds for denial or revocation of a rental inspection certificate, pursuant to the procedures set forth in article IV of chapter 26 of this Code.

(C91, § 16-119.06A; O.13,405, 15,819)

Sec. 98-117. Prohibited acts.

(a) Persons owning or residing in a residential premises shall not place yard debris for collection as disposable waste mixed with other solid wastes or in bags, containers, boxes, or bundles not designated for the collection of such materials. Violation of this subsection is a municipal infraction punishable as provided in section 98-79 of this article.

(b) Persons owning or residing in a residential premises shall not place other solid wastes in bags, containers, boxes, or bundles designated for yard debris, nor shall they place other solid wastes for collection with recyclable materials. Violation of this subsection is a municipal infraction punishable as provided in section 98-79 of this article.

(c) Persons owning or residing at a residential premises shall not compost yard debris except in compliance with section 98-115 of this division. Failure to comply with a notice or order from the city with respect to establishment, maintenance, or removal of a compost pile shall constitute a municipal infraction punishable as provided in section 98-79 of this article.

(d) The city may reject any bags or containers placed for collection in violation of subsection (a) or (b) of this section. Upon rejection of a bag or container, the bag or container will be placed upon the violator's property, and the violator will be required to correct the violation before placing the bag or container for collection again. If bags or containers are persistently placed for collection in violation of subsection (a) or (b) of this section, a violation notice may be left at the violator's residence or upon an empty solid waste container or may be mailed to the violator's residence.

(e) Persons residing in a multifamily residential premises and owners of other premises which are participating in the city's curbside recycling program shall not place other solid wastes for collection with recyclable materials. Violation of this subsection is a municipal infraction punishable as provided in section 98-79 of this article.

(f) The owner or operator of a multifamily residential premises shall establish a program meeting the requirements of this section for the storage and collection of recyclable materials generated by the residents of such premises. Failure to comply with this subsection shall constitute a municipal infraction punishable as provided in section 98-79 of this article and shall be grounds for denial or revocation of the rental inspection certificate for the premises.

(C91, § 16-119.07; O.11,900, 13,254, 13,405, 14,919)

Sec. 98-118. Sale and issuance of bags, stickers and city-owned containers designated for yard debris.

The Metro Waste Authority shall be responsible for the sale and issuance of bags and stickers designated for yard debris for cardboard boxes and tree limb or brush bundles. The public works department shall be responsible for the sale and issuance of the 64- and 96-gallon green lid city-owned solid waste containers for yard debris. The charge for yard debris containers for each 64-gallon green lid container is at $8.34 per month and $10.42 per month for each 96-gallon open lid container plus a one-time fee of $25.00 for container processing, billed and collected pursuant to sections 98-55, 98-56, and 98-57 of this chapter.

(C91, § 16-119.08; O.11,900, 13,254, 13,350, 13,702, 14,228, 14,733, 15,664)

Secs. 98-119—98-145. Reserved.

ARTICLE III. DISPOSAL FACILITIES

Sec. 98-146. Schedule of rates.

A schedule of the rates, fees, tolls, and other charges to be levied and collected from city residents for the use and services of the solid waste disposal facilities shall be established and put into effect whenever necessary in order for the city to comply with the provisions of its solid waste disposal service contract; provided, however, the city may in its discretion apply such other lawfully available moneys it has on hand for such purpose.

(C62, § 52B-2; O.8347; C75, C79, C91, § 16-121)