

SECTION 5.36. - LICENSING OF COLLECTORS OF SOLID, RECYCLABLE AND/OR YARD WASTE.

(Source: Ordinance No. 1-2012, 01-26-2012; Ordinance No. 12-2007, Ordinance No. 30-2004)

Subd. 1. Purpose and Findings. The Council of the City of Eden Prairie finds that the present practice of disposing of solid waste in land disposal facilities commonly referred to as landfills is unacceptable because such disposal is detrimental both in the short-range and long-range to the environment in that it causes pollution and contamination of underground and surface waters, the air and natural flora and fauna, it is harmful to the health and safety of persons and property because of the generation of noxious and dangerous odors and gases, including methane gas, the contamination of waters and air, and the blowing of airborne particles and contaminants causes social and/or economic harm to persons and property who reside, or which is, in proximity to landfills and should be done only in the absence of reasonably available alternatives.

In an effort to ameliorate and eliminate so far as possible the social, economic and physical harm caused by the disposal of solid waste in landfills, the Council of the City hereby adopts the following provisions relating to the collection of solid waste, recyclable waste and yard waste separated at its source.

Subd. 2. Definitions. The following terms, as used in this section, shall have the following meanings:

Aluminum Recyclables means disposable containers fabricated primarily of aluminum, commonly used for beverages.

Association means all organizations of residential dwelling owners formed for the purpose of joint management of property or services.

Can Recyclables means disposable containers fabricated primarily of metal or tin.

Collection means the aggregation of Solid Waste or Recyclable Wastes from the place at which it is generated and includes all activities up to the time when the material is delivered to the final disposal site.

Commercial Establishment means any premises where commercial or industrial enterprise of any kind is carried on and shall include restaurants, clubs, churches, and schools where food is prepared or served.

Corrugated Cardboard means heavy paper or cardboard material with double wall construction and corrugated separation between walls for use in packing or boxing materials.

Curbside Recycling Service includes single and multiple family dwellings where each housing unit sets out their own refuse and recycling container for collection at the curb.

Disposal Facility means a waste facility permitted by the Minnesota Pollution Control Agency ("MPCA") that is designed or operated for the purpose of disposing of solid waste.

Glass Recyclables means jars, bottles, and containers which are primarily used for packing and bottling of food and beverages.

Geographic Service area means that area incorporated within the boundaries of the City.

Licensee means a person licensed to collect and transport solid, recyclable and/or yard waste or roll off containers as provided in this section.

Multiple Family Dwelling means attached dwelling units and accessory structures containing two (2) or more dwelling units.

Paper recyclables means newsprint, advertising supplements, office paper, magazines, catalogs, mixed paper, aseptic containers, gable-topped containers and uncoated paper products such as cereal, cracker, pasta, cake mix, shoe, gift, electronics and toothpaste boxes.

Plastic Recyclables means plastic containers and lids from containers that are labeled #1 (Polyethylene Terephthalate, PET, or PETE), #2 (High Density Polyethylene or HDPE), #3 (Vinyl Polyvinyl Chloride or PVC), #4 (Low Density Polyethylene or LDPE), or #5 (Polypropylene or PP), excluding bottles that previously contained hazardous materials or motor oil.

Recyclable Waste means those components of solid waste consisting of aluminum recyclables, can recyclables, corrugated cardboard, glass recyclables, paper recyclables, plastic recyclables, organics, and other materials required to be recycled in compliance with City Ordinances, County Ordinances and Regulations, and State Statutes and Rules, each of which has been separated by a customer into a container or containers which have been designated for recyclable or organic waste.

Recycling means the process of collecting Recyclable Waste for reusing these materials to prevent waste of potentially useful materials either in new products, in their original form, or in a manufacturing processes that does not cause destruction of them in a manner that precludes further use.

Residential Customer means a person or persons who is or are customers of a Licensee and reside in a Single Family Dwelling or Multiple Family Dwelling which is used for residential purposes by one or more people, not including hotels, motels, rest homes, hospitals, or nursing homes.

Roll Off Containers means detachable receptacles, containers, dumpsters, bins or boxes designed for collection of construction, demolition, renovation, scrap, recycling, liquid, solid waste or yard waste materials or debris.

Single Family Dwelling means a Single family, detached dwelling and accessory structures designed for or containing one dwelling unit.

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

Yard Waste means solid waste generated from landscaping and lawn care activities such as mowing, trimming, gardening or raking consisting of grass clippings, twigs, tree and brush clippings, straw, pine needles, tree branches, soft vegetative garden waste and leaves.

Subd. 3. License Required. It is unlawful for any person to collect solid, recyclable and/or yard waste from any person, or transport the same, without a license therefore from the City.

Subd. 4. Exception. Nothing in this section shall prevent a person from collecting or transporting solid, recyclable and/or yard waste from the person's own residence or place of business provided the collection and transportation of the solid, recyclable and/or yard waste is conducted in accordance with Minnesota Rules Chapter 7035.0800. All solid, recyclable and/or yard waste shall be dumped or unloaded only at a disposal facility licensed by the Minnesota Pollution Control Agency.

Subd. 5. The following are conditions applicable to each Licensee for a license for the collection of solid, recyclable and/or yard waste:

- A. Each Licensee is authorized to collect solid, recyclable, organic and/or yard waste within the geographical service area. The Council has by resolution divided the geographical service area into districts and established the days on which residential solid waste and recyclable collection may occur within each district. The districts so established and the days on which collection may occur within each district may from time to time be amended by the Council by resolution. No Licensee or any other person shall collect solid, recyclable and/or yard waste from residential customers on any day other than the day specified for collection in the district except to collect roll-off containers, missed pickups, a special pickup or when a holiday falls on a district collection day.
- B. Each Licensee shall use vehicles or roll off containers for the collection and transportation of

solid, recyclable and/or yard waste in good operating condition, of such design and so equipped so as to prevent loss in transit of liquid or solid cargo. The vehicles shall be kept clean and free from offensive odors and shall not be stopped or parked longer than reasonably necessary to collect solid, recyclable and/or yard waste.

- C. No Licensee shall operate a vehicle on any city street which exceeds eight (8) tons per axle weight.
- D. No Licensee shall operate in a residential district after 8:30 p.m. or before 7:00 a.m. of any day, and shall not operate in a residential district on Sunday.
- E. Each Licensee shall exhibit evidence of the license in a prominent position on each vehicle used in the collection or transportation of solid, recyclable and/or yard waste.
- F. Each Licensee shall be solely responsible for the provision, at its expense, of all personnel and equipment necessary to collect and transport all solid, recyclable and/or yard waste for which a license is granted by the City for delivery and disposal in accordance with the City Code and such regulations as the City may from time to time establish.
- G. Each Licensee shall take all precautions necessary to protect the public against injury and shall defend, indemnify and save the City harmless from and against all liabilities, losses, damages and claims of damages (including all reasonable costs, attorneys' fees, and other expenses incident thereto) suffered or incurred by the City that may arise by reason of any act or omission on the part of the Licensee, its agents, or independent contractors, while engaged in the collection and transportation of solid, recyclable and/or yard waste. Each Licensee shall also defend, indemnify and save the City harmless from and against any and all claims, liens and claims for labor performed or material furnished incident to the said collection and transportation by Licensee including claims for material or services furnished or subcontracted for by it. Each Licensee shall also defend, indemnify, and save the City harmless from and against all liabilities, losses, damages, costs and expenses (including attorneys' fees and expenses of City), causes of action, suits, claims, demands and judgments of any nature arising from violation of any representation, agreement, warranty, covenant or condition made by Licensee or imposed upon Licensee by Section 5.36 of the City Code.
- H. Each Licensee shall obtain and furnish to City evidence of all insurance required under this subdivision, covering all vehicles to be used and all operations to be performed by Licensee in collecting and transporting solid, recyclable and/or yard waste. Each policy of insurance required under this subdivision shall name the City as an additional insured.
 - 1. Existence of the insurance required herein shall be established by furnishing certificates of insurance issued by insurers duly licensed to do business within the State of Minnesota in force on the date of commencement of the license period, and continuing for a policy period of at least one (1) year and providing the following coverages:
 - a. Public liability insurance, including general liability, automobile liability, completed

operations liability, and loading and unloading liability in the following amounts.

- b. Bodily injury liability in the amount of at least \$100,000.00 for injury or death of any one person in any one occurrence.
 - c. Bodily injury liability in the amount of at least \$300,000.00 for injuries or death arising out of any one occurrence.
 - d. Property damage liability in the amount of at least \$50,000.00 for any one occurrence.
2. Such general liability and automobile liability insurance policy or policies shall provide contractual liability insurance, specifically referring to and covering the obligation of Licensee to defend, indemnify and save harmless the City, its officials, agents and employees from alleged claims or causes of action for bodily injury or property damage as provided in Section 5.36 hereof.

3. Said general liability and automobile liability policy or policies shall contain an endorsement as follows:

The policy to which this endorsement is attached is intended to comply with and furnish the coverages required by Section 5.36 of the City Code of the City of Eden Prairie. If anything in any other attachment, endorsement or rider conflicts with the provisions of said Section 5.36, then the provisions of said Section 5.36 shall prevail.

Any deductible amount provided for in any part of the policy will be paid by the insurer upon establishment of legal liability of any insured, and the insurer shall be entitled to reimbursement from the insured for such deductible amount.

4. Said policies of insurance shall be furnished by a Licensee to City for examination and approval prior to the effectiveness of any license issued to a Licensee together with a certificate or certificates executed by an authorized representative of the insurer, certifying to the insurance coverage herein required, and stipulating that the policy will not be canceled nor any material change effected without first giving thirty (30) days written notice to City. After examination and approval of said policies by City, they may be returned to the Licensee, but the certificates of insurance shall be retained by City. Upon request by City, Licensee shall promptly furnish to City for examination at any time all contracts of insurance required herein. Each Licensee shall, on each anniversary date of the license, furnish City with evidence satisfactory to the City of the insurance required hereunder.
- I. Each Licensee shall at all times operate its business of collecting, transporting and disposing of solid, recyclable and/or yard waste in compliance with all local, state, and federal laws. Each Licensee shall obtain and maintain all licenses, permits, or other authority required by each county in which it operates, the Minnesota Pollution Control Agency and any other governmental agency having jurisdiction over its activities.
 - J. Each Licensee shall impose charges for the collection of solid waste that increase with the volume

or weight of the solid waste collected.

Subd. 6. In addition to the conditions imposed upon Licensees set forth in Subdivision 5 hereof the following are conditions applicable to each Licensee for a license for the collection of solid, recyclable and/or yard waste from customers effective August 1, 1989. Each such Licensee shall:

- A. Collect or provide for the collection from each customer of the Licensee of recyclable waste no less frequently than on a bi-weekly basis and solid waste no less frequently than on a weekly basis on the same day or days that the Licensee collects other forms of solid waste from such customer as described in Subdivision 5(A).
- B. Not deliver to, dump, or dispose of recyclable waste which has been placed in a container designated for recyclable waste on or in a disposal facility.
- C. Provide for and collect yard waste from each residential customer of the Licensee at least as frequently and on such day or days as it shall collect other forms of solid waste from such residential customer between May and October.
- D. A Licensee shall not deliver to, dump or dispose of yard waste on or in a Disposal Facility.
- E. Make available for sale and sell at a reasonable cost to the Licensee's customers, containers for recyclable waste approved by the City.
- F. The Licensee shall provide to the City a quarterly written report that includes the following information.
 - 1. The amount, by weight or volume, of each of the following materials collected during the preceding month from all residential customers of the Licensee in the City:
 - a. Aluminum Recyclables.
 - b. Can Recyclables.
 - c. Corrugated Cardboard.
 - d. Glass Recyclables.
 - e. Paper Recyclables.
 - f. Plastic Recyclables.
 - g. All other recyclable waste.
 - h. Yard Waste.
 - i. Organic Waste.
 - j. All other Solid Waste.
 - 2. Number of Single Family Households with curbside recycling service.
 - 3. Number of Multiple Family Households or Customers with curbside recycling service.
 - 4. Number of Multiple Family Households without curbside recycling service.
 - 5. Number of Commercial Establishments with recycling service.
- G. Retain all documents evidencing the amount of the materials collected and/or received by the

Licensee from the facility or facilities at which the materials have been disposed for a period of at least five (5) years. These documents shall be available for inspection by representatives of the City at all reasonable times within the County of Hennepin or a contiguous county.

- H. Not impose a greater charge for the collection of solid waste upon customers who recycle than upon customers who do not recycle solid waste or any part thereof.
- I. Collect or provide for the collection of recyclable waste from each commercial or business customer on request. The recycling container must be accommodated within an existing or expanded enclosure for solid waste.
- J. Collect or provide for the collection of at a minimum the following materials from all Residential Customers and Commercial Establishments who recycle:
 - 1. Aluminum Recyclables.
 - 2. Can Recyclables.
 - 3. Corrugated Cardboard.
 - 4. Glass Recyclables.
 - 5. Paper Recyclables.
 - 6. Plastic Recyclables.
- K. Collect or provide for the collection of all recyclable materials from residential customers with Curbside Recycling Services using one of the following systems:
 - 1. *Single Sort System*. All recyclable materials are collected in one container, or
 - 2. *Dual Sort System*. All Paper Recyclables are collected separately
- L. Provide one educational piece of literature or one educational flyer in a format approved by Hennepin County to each Single Family and Multiple Family Household who has Curbside Recycling Service. The educational literature or flyer must include at a minimum the materials that are collected for Curbside Recycling.

Subd. 7. Exceptions. City Code Section 5.36 is applicable to Roll Off Licensees except as follows: 5.36, Subdivision 6(C) and 6(E). City Code Section 5.36 Subdivision 6(A) is applicable to Roll Off Licensees unless the Roll Off Container is used for collection of construction, demolition or renovation materials.

Subd. 8. Obstructions. Pursuant to City Code Section 6.03, roll-off containers shall not be placed within the street or other public property.

Subd. 9. Penalty. Failure to perform, meet or comply with any condition or obligation imposed upon a Licensee by the City Code shall constitute a sufficient ground to withhold issuance, suspend, or revoke the license of a Licensee.

Subd. 10. Relationship of the Parties. The City shall have no responsibility or obligation whatsoever with respect to the collecting, transporting or disposal of solid, recyclable and/or yard waste, or payment for such services to any person, and nothing in this section shall be deemed to constitute a Licensee a partner, joint venturer, agent or representative of the City or to create the relationship of employer-employee.