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**ARTICLE IV. - PRIVATE ROLL-OFF COLLECTION AND DISPOSAL SERVICES** [111]

Sec. 90-121. - City to provide garbage, brush and recyclable collection services; exceptions; license required.

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Secs. 90-125—90-145. - Reserved.

**Sec. 90-121. - City to provide garbage, brush and recyclable collection services; exceptions; license required.**

- (a) Only the duly authorized agents or employees of the city shall provide garbage or trash, brush or recyclable collection service, and roll off container service to residential or commercial or industrial customers within the city.
- (b) Except as may otherwise be specifically provided herein, no one may provide hauling services, including roll-off services, without a private hauler's permit issued by the public works director.
- (c) The provisions of this article relating to license requirements shall not apply to persons who haul trash or brush for hire incidental to services otherwise provided relating to yard cleanups or minor remodeling projects, where such service is provided on an interim basis.

*(Code 1966, § 16-63; Ord. No. 1996-57, § XXII, 8-26-96; Ord. No. 2002-81, § 1, 12-9-02; Ord. No. 2008-41, § 1, 5-27-08)*

**Sec. 90-122. - Application generally; limitations and conditions; permit fee; nontransferability of permit; posting of permit sticker on vehicles; appeal of denial of permit.**

- (a) Any person seeking to provide hauling services, including roll-off services within the city must file an application for a private hauler's permit with the public works director. Such permits may be issued only for the collection, removal and disposal of construction debris and/or land clearing waste. The public works director or designee shall make or cause to be made an investigation as may be necessary in order to determine whether or not the applicant meets the requirements. The applicant shall file an application providing such information as may be required by the public works director, including the following:
  - (1) Name and address of the applicant.
  - (2) The trade name of the applicant.
  - (3) The number of vehicles the applicant will operate within the city.
  - (4) The class, size and design of the vehicles which the applicant will operate.
  - (5) The nature and character of the services the applicant proposes to render in the city.
  - (6) The experience that the applicant has in rendering the services cited in subsection (a)(5) (for informational purposes only and not related to determination of issuance).
  - (7) Submit a schedule of rates that the applicant will be charging his customers (for informational purposes only and not related to determination of issuance).
- (b) As a condition for the issuance of a private hauler's permit under this article the applicant shall file:
  - (1) A certificate of general liability insurance showing coverage in the amount of \$1,000,000.00 for personal injury and \$100,000.00 for property damage for each vehicle to be operated in the city and showing the city as one of the insured thereunder. Proof of workers' compensation insurance shall also be provided.
  - (2) A hold harmless indemnity agreement in which the applicant agrees to hold harmless the city from any liability for damages which may occur as a result of the applicant's operation in the city and indemnify the city for liability or damages created as a result of the applicant's operation in the city.
  - (3) A copy of any license agreement, lease, deed or title of ownership and Texas Commission on Environmental Quality (TCEQ) approval identifying the landfill site for which the garbage or trash collected in the city will be finally deposited. Such evidence of right to use any landfill site will be

for a period of at least one year from the date of the granting of the private hauler's permit by the city.

- (4) An agreement from the applicant to the city stating that the applicant will furnish to the city on a quarterly basis information updating its customer list, routes to be traveled within the city, and any additional vehicles to be used within the city during the period of the private hauler's permit.
- (5) An agreement from the applicant to pay to the city a sum equal to five percent of any and all customer-assessed fees and charges derived from the operation of the permitted collection service by such applicant, such payments to be made quarterly no later than by the fifteenth day of the month following the end of each quarter. On the first day after the date in which such payment shall be due and payable, there is hereby added to such payment a penalty equal to five percent of the amount of such payment. If any such payment remains delinquent for 30 days after such due date, there is hereby added to such payment an additional penalty of ten percent of the amount of such payment. If any such payment remains delinquent for a period of 60 days after such due date, then in addition to such payment and penalty, there is hereby imposed an interest payment on the amount of such delinquent tax equal to ten percent per annum until the amount of such payment or any remaining portion thereof is finally paid in full. In addition to the amount of any payment, penalties and interest owed as provided herein, a private hauler who fails to timely make payment is liable to the municipality for the municipality's reasonable attorney's fees in collecting the same. A statement of fees and charges assessed by the applicant for the applicable period, in such preformatted forms as may be provided by the public works director, shall be filed in hard copy and in digital format on a monthly basis.
- (6) An agreement from the applicant to the city stating the applicant will terminate service to any residential customer after annexation by the city and upon its existing service contract termination or one year from annexation date, whichever comes first. No new contracts or renewals for residential service will be allowed in annexed areas. Applicants shall provide for such termination contingency in all residential contracts in the extra territorial jurisdiction of the city.
- (7) An agreement to allow the director of finance, or designee, during reasonable business hours, access to the books and records of any applicant, permittee or other person subject to this article, as shall be necessary to ascertain the accuracy of any report filed as required by this article, to determine whether any calculation of the amount due under any provision of this article needs correction, or to determine whether a report should have been filed and the amount, if any, of fees due.

Failure to meet any of the obligations as set out in this section for the granting of the private hauler's permit or any of the requirements or restrictions in section 90-123 shall constitute grounds for denial or revocation of a permit by the public works director. The city attorney may enter an appropriate pleading in a court of competent jurisdiction to prevent and enjoin the private hauler's permit holder or any person engaging in such activities without any required permit from operating any waste collection service within the city.

- (c) When all conditions set out in this section have been met, the public works director shall issue an annual private hauler's permit which will cover the period January 1 through December 31 of each year. The fee for this annual private hauler's permit shall be \$220.50. The permits granted under this section shall be renewable from year to year upon filing of a new permit application, which shall be filed for existing permits on or before December 1 of the current year for the permit. No grant, right or privilege afforded to the applicant under this article shall be assigned or transferred in any manner without the expressed written approval of the public works director.
- (d) In addition to the private hauler's permit, a permittee must apply for and receive a vehicle permit for each vehicle operated in the collection of waste. The public works director for the city is hereby authorized to issue a permit sticker or other indicia which must be attached to each vehicle used for the purposes of this article by any private hauler's permit holder as required by the public works director. No vehicle may be employed in the permittee's operations within the city unless the vehicle permit is so posted.
- (e) If the public works director shall refuse to issue a private hauler's permit to any applicant, the action of the public works director shall be final unless the applicant shall, within ten days after such refusal to issue such a permit, file a written appeal with the city secretary addressed to the city manager requesting review. Should the city manager concur in the decision of the public works director, that decision shall be final, unless the applicant shall, within ten days after such concurrence, file a written appeal with the city secretary addressed to the board of commissioners requesting review of the decision of the public works director and the city manager. Such applicant shall have the right to present evidence of why a permit should be granted. The appeal procedure for revocation of a permit shall be the same as stated in this section for refusal to grant a permit. The authority conducting any such hearing shall give written notice of the decision on the appeal within ten days from the closing of such hearing, and the hearings provided for in this section shall be conducted so as to allow necessary due process application to the applicant or permit holder, as applicable.

*(Code 1966, § 16-64; Ord. No. 1996-57, § XXIII, 8-26-96; Ord. No. 1997-96, § XII, 10-13-97; Ord. No. 2006-103, § 8, 10-9-06; Ord. No. 2008-41, § 1, 5-27-08)*

### **Sec. 90-123. - Equipment requirements and restrictions for permittees.**

- (a) All vehicles used by any permittee within the city shall meet the minimum specifications relating to safety

- and health as promulgated and established by any applicable state law or regulation.
- (b) It shall be the obligation of the permittee to see that all containers used for its collection service meet all the specifications and requirements for such containers under applicable state laws and regulations.
  - (c) Anyone's use of city rights-of-way to place any container is hereby expressly prohibited.
  - (d) Should any customer of a permittee cancel or have service canceled, it shall be the responsibility of the permittee to remove its container and any accumulation of garbage, trash or brush at the location as a final collection. The permittee shall notify the city in writing of the date of termination and the date of the abovementioned final collection.

*(Code 1966, § 16-65; Ord. No. 2008-41, § 1, 5-27-08)*

**Sec. 90-124. - Duties, authority of director of finance.**

The director of finance may adopt and amend procedures, rules and regulations as are reasonably necessary to effectively collect the fee levied in this article, and shall, upon request of any permittee hereunder, furnish a copy of such procedures, rules and regulations for the guidance of such person and facilitate the collection of such fee as such collection is required in this article.

*(Ord. No. 1996-57, § XXIV, 8-26-96; Ord. No. 2008-41, § 1, 5-27-08)*

**Secs. 90-125—90-145. - Reserved.**

**FOOTNOTE(S):**

<sup>(111)</sup> *Editor's note*— Ord. No. 2008-41, § 1, adopted May 27, 2008, renamed Article IV. Formerly Article IV was titled *Private Collection and Disposal of Brush and Trash*. (*Back*)