

VILLAGE OF AUGUSTA

RESIDENTIAL WASTE REDUCTION ORDINANCE ORDINANCE 169

An Ordinance to provide for the regulation and licensing of residential garbage collection services; to require the provision of recycling, trash and yard trimming collection services in connection therewith; to provide sanctions for the violation thereof; and to repeal all ordinances or parts of ordinances in conflict therewith.

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ARTICLE I TITLE, PURPOSE, AND LEGAL JUSTIFICATION

Section 1.01 - Title

This Ordinance shall be known as the Residential Waste Reduction Ordinance of 199____ and herein referred to as the "Ordinance."

Section 1.02 - Purpose

a) The purpose of this Ordinance is to protect and promote the public health, safety, and welfare of the inhabitants of the local unit by regulating the collection of residential garbage and recyclables in a manner that will promote waste reduction.

b) This Ordinance does not prevent persons or organizations from marketing or disposing of collected materials where the persons or organizations choose, as long as the collected materials are marketed or disposed in a manner which is consistent with local, state, and federal requirements.

Section 1.03 - Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 1.04 - Severability

Sections of the Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 1.05 - Current Contracts

This Ordinance is not intended to alter or delete terms or conditions of any existing contract or franchise or the local unit's rights and abilities to develop other means of providing garbage, recycling, trash or yard trimmings service through, for example, but not limited to, collection services provided by municipal crews or a private contractor(s).

ARTICLE II **DEFINITIONS**

Section 2.01 - Definitions

For the purpose of this Ordinance, the words and phrases listed below shall have the following meanings.

- 1) "Curbside Collection" means the gathering by a hauler of designated materials placed by a customer within six (6) feet of the curb or road's edge.
- 2) "Front Door Service" means a service which collects designated materials on the exterior side of a residence which faces the street access for the residence.
- 3) "Garbage" means all waste consisting of or in general contact with putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and other small miscellaneous residential waste, such as consumer packaging used for food products.
- 4) "Hauler" means any Person involved in the business of collecting residential garbage generated within this jurisdiction.
- 5) "Licensing Agent" means the local unit or a person or public agency designated by the local unit to perform administrative duties specified in the ordinance.
- 6) "Local Unit" means the City, Township, or Village in which this Ordinance is adopted.
- 7) "On site collection service" means service provided to residential buildings of five dwelling units or more. Containers for such service generally shall be for common collection.
- 8) "Person" means any individual, firm, public or private corporation, partnership, trust, public or private agency or any other entity or any group of such persons.
- 9) "Prohibited items" means items which cannot be lawfully deposited in a Type II landfill as defined by state law.
- 10) "Recyclable material or recyclables" means waste materials which can be converted to a useful product and for which there is a market. Examples of recyclable materials include corrugated materials, cardboard, clear glass jars and bottles, and certain plastics and metals.
- 11) "Trash" means all large rubbish and debris of a domestic or household character, except garbage, recyclables, and yard trimmings, or any other prohibited item. Recyclable containers containing trash shall be deemed trash for purpose of this Ordinance.
- 12) "Unit-based fees" means a fee system used by a hauler to charge for services based on the amount (weight or volume) of the material being collected from the customer. Fees progressively based on the collection container size shall be deemed "unit-based fees" for the purpose of this ordinance.
- 13) "Yard Trimmings" means leaves, grass clippings, vegetable or other garden debris, shrubbery, or brush or tree trimmings less than 4 feet in length and 2 inches in diameter.

ARTICLE III **HAULER REQUIREMENTS**

Section 3:01 - General Hauler Requirements

a) A hauler shall offer the following three curbside collection services to its residential customers in buildings containing four (4) dwelling units or less:

- 1) garbage-recycling
- 2) trash; and
- 3) yard trimming

Customers shall be permitted to purchase any or all of the above services on either a regular or irregular basis.

b) A hauler shall not limit the amount of residential recyclable materials from each customer as long as the materials are generated by that customer.

c) A hauler shall offer at least three garbage collection container size options. The smallest option shall be no greater than a 30 gallon container.

d) A hauler shall offer customers living in housing structures with five or more units the opportunity for on-site collection of garbage and recyclables.

e) Haulers shall abide by local ordinances in effect which regulates days when materials are collected.

Section 3:02 - Frequency of Service

- a) A hauler shall offer its regular curbside residential garbage-recycling customers a minimum of once per week garbage collection service, and once per month recycling collection service. A hauler shall also offer irregular or as needed collection service.
- b) A hauler shall offer its regular curbside residential garbage customers residential trash and yard trimming collection services at a frequency of not less than four (4) times per year. A hauler shall also offer irregular or as needed collection service.

Section 3:03 - Fees

- a) A hauler shall clearly and separately indicate on the customers' billing statements the fees for each of the following collection services purchased every time the customer is billed:

- 1) garbage;
- 2) recycling;
- 3) trash; and
- 4) yard trimming.

- b) Fees for residential collection services shall be "unit-based," with the exception of recycling which shall not be unit-based.

- c) A hauler shall not charge an extra fee for front door or similar non-curbside service to elderly or handicapped customers who provide proof to the hauler of a disability which renders their household unable to place materials for collection at the curb or road edge. In a case of dispute between customer and hauler as to the adequacy of the proof provided by the customer, the local unit shall make the final determination.

Section 3.04 - Minimum Liability Insurance Requirement

- a) All haulers shall provide proof of minimum liability insurance when working in the local unit as follows:

- 1) Commercial General Liability (including contractual liability, independent contractors' coverage, and broad form general liability extensions)

Personal/Bodily Injury \$1,000,000 each person
 \$1,000,000 each accident

Property Damage: \$1,000,000 each accident

\$1,000,000 each aggregate

- 2) Motor Vehicle Liability (including hired cars and auto non-ownership)

Bodily Injury: \$1,000,000 each person
 \$1,000,000 each occurrence

Property Damage: \$1,000,000 each accident
 \$1,000,000 each aggregate

- b) The insurance company(s) providing the above insurance to the hauler must be licensed to do business in the State of Michigan, recognized by the Michigan Insurance Bureau, and have a rating in the latest Best rating of B+ or better.

- c) The insurance policy shall include an endorsement stating that it is understood and agreed by the hauler and its insurance company that thirty (30) days advance written notice of cancellation, non-renewal, reduction, and/or material change of the insurance policy shall be sent to the licensing agent and local unit.

Section 3.05 - Educational Requirements

a) Semi-annual Educational Notice: On a semi-annual basis, all haulers shall distribute to their residential customers, the local unit and the licensing agent printed material which communicates the availability of and includes the details and procedures for the collection services regulated in the Ordinance. Haulers may distribute the printed materials with customer billings or appropriate leave-behind tags for its customers. A hauler shall notify its residential customers of any material changes in service that effect the customer on or before the next billing cycle.

b) Educating Non-compliant Customers: If a customer of the hauler does not properly prepare materials for collection, a hauler is not obligated to pick-up the material if, by collecting the materials, a hauler places itself in a position of non-compliance with this Ordinance or other applicable law. In such cases, the hauler shall notify the customer of the potential violation and provide instructions to the customer on how to comply. The notification shall be: a leave-behind tag, a letter, telephone and/or direct personal communication.

Section 3.06 - Reporting Requirement

In order to permit public evaluation of the waste reduction measures promoted in this Ordinance, all haulers shall file quarterly reports with the licensing agent by the fifteenth (15th) day of January, April, July, and October of each year. The report shall contain a good faith estimate of the amount of residential recyclables collected by the hauler within: the City of Kalamazoo, the City of Portage, and that portion of Kalamazoo County outside the Cities of Kalamazoo and Portage.

ARTICLE IV SANCTIONS

Section 4.01 - Sanctions

A hauler who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute and shall be subject to a civil fine of not more than \$500 along with costs which infraction. In no case, however, shall costs of less than \$9 nor more than \$500 be ordered. Each day that a violation occurs shall constitute a separate offense. The foregoing sanctions shall be in addition to the rights of the local unit to proceed under Section 5.06 or at law or equity with other appropriate and proper remedies.

ARTICLE V LICENSING OF HAULERS

Section 5.01 - Hauler License

No person shall engage in the business of collecting residential garbage within the local unit without first obtaining a hauler license.

Section 5.02 - License Application

a) The application will require: the name, local address, and telephone number of the hauler; the name, address, and telephone number of the hauler's main office, if the local office is a subsidiary or branch location; and proof of insurance. The application shall be signed by a duly authorized officer or employee of the hauler.

b) A licensee shall notify the licensing agent, in writing, prior to any substantial change in the information provided in this application.

Section 5.03 - License Application Fee and Renewal Fee

- a) Application or renewal licensing fees shall be paid by the applicant upon submittal of the application to the licensing agent. The application and renewal fees shall be set by the licensing agent. If the local unit designates Kalamazoo County as the licensing agent under this Ordinance and one or more other municipalities do the same, a single application fee paid by the hauler to Kalamazoo County for a hauler license shall satisfy the application fee requirement for those municipalities. The fees shall be reasonable and shall not exceed the cost of administering the Ordinance.
- b) A license shall expire on December 31st of each year.

Section 5.04 - Approval or Denial of License

- a) Upon receipt of a completed application and the application fee, the licensing agent has up to 45 days to determine the accuracy of the information included on the application. If the information on the application is found to be accurate, the licensing agent shall issue a written notice of approval no later than 45 days after receipt of the application. If any inaccuracy(ies) become apparent, the licensing agent shall inform the applicant of the inaccuracy(ies) by certified mail and request a correction.
- b) A hauler shall provide corrected information for the application, by certified mail, to the licensing agent within seven (7) days of receipt of the original request or be subject to denial of the license by 12 midnight of the seventh day, if such information is not forthcoming.
- c) Notice of denial shall be sent to the applicant by certified mail. The notice shall include the notification of the right of the applicant to request reconsideration of the denial and to have a hearing thereon before the licensing agent. Any such request for consideration shall be filed in writing with the licensing agent within 10 days from the date of mailing of the notice of denial. The hearing shall be noticed and conducted by the licensing agent in substantial accordance with the procedures set forth in Section 5.06.

Section 5.05 - Suspension and Revocation of a Hauler License by the Local Unit

- a) The local unit may, acting in accordance with Section 5.06, suspend or revoke a hauler's license to operate within the local unit's jurisdiction.
- b) A license may be suspended or revoked for the following reasons:
- 1) the failure of the licensee to substantially comply with this Ordinance or any other applicable federal, state, county and local laws and regulations;
 - 2) misrepresentations of any material fact contained in the license application; and/or
 - 3) the failure of licensee to make payment of any municipal civil infraction fine(s) imposed for violation of this Ordinance.
- c) If a hauler's license is suspended, it will remain suspended for such period of time as is set by the local unit. If a hauler's license is revoked by the local unit, the licensing agent shall not issue a new license until approval has been granted by the local unit.

Section 5.06 - Procedure to Suspend or Revoke the License

- a) Written notice of a public hearing to consider suspension or revocation of a license shall be mailed by certified mail to the licensee at its last known address, not less than seven (7) days prior to the public hearing at which the suspension or revocation of the licensee will be considered. The notice shall indicate the date, time, and location of the hearing. It shall also include a statement of the tentative reasons for the proposed suspension or revocation.
- b) The public hearing shall provide the opportunity for the hauler to present witnesses and question any adverse witnesses as may appear at the hearing.
- c) Any suspension or revocation imposed by the local unit shall be based upon a full consideration of the evidence presented at the public hearing.
- d) The local unit shall have 30 days from the date of the public hearing to make a determination. Written notice of the determination, along with a statement of the reasons for the determination shall be mailed by certified mail to the last known address of the licensee no later than eight (8) days after the local unit's decision.

Section 5.07 - Transferability of Licenses

A license shall not be transferable or assignable to another.

ARTICLE VI EFFECTIVE DATE

Section 6.01

Effective date: This Ordinance shall become effective on May 1, 1995.

Passed and adopted by the Council, Augusta, Michigan on the 27 day of February, 1995, and approved by me on the 27 day of February, 1995, after the following roll call vote:

☒ Aye
☐ Nay
☐ Absent/Abstain

Kaye McAlear, Clerk
