

ORDINANCE NO.
2023-10803

AN ORDINANCE AMENDING CHAPTER 33 IN ITS ENTIRETY ENTITLED “REFUSE, GARBAGE, AND WEEDS” OF THE CODE OF CIVIL AND CRIMINAL ORDINANCES OF THE CITY OF IRVING, TEXAS, TO ESTABLISH GUIDELINES FOR CURBSIDE COLLECTION, PROVIDING SOLID WASTE SERVICE RATES AND FEES, PROVIDING AN EFFECTIVE DATE AND PROVIDING SEVERABILITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION 1. That Chapter 33, “Refuse, Garbage, and Weeds,” of the Code of Civil and Criminal Ordinances of the City of Irving, Texas, is hereby amended in its entirety to read as follows:

Chapter 33 REFUSE, GARBAGE AND WEEDS

ARTICLE I. IN GENERAL

Sec. 33-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Applicant, means the individual or corporation applying for a franchise agreement to collect solid waste in the City of Irving.

Brush, means shrubs, other yard waste and tree trimmings.

Bulky Items, means household items that cannot fit in a Refuse or Recycling Bag, not including broken down cardboard, Large Cardboard Box, or Construction and Demolition Debris.

Construction and Demolition Debris, means waste resulting from construction or demolition projects; includes all materials directly or indirectly the by-products of construction work or that result from demolition of buildings and other structures, including but not limited to tub, sink, countertop, flooring, cabinetry, doors, windows, light fixtures, sheetrock, insulation, roofing, fencing, concrete, asphalt, rock, dirt, bricks, sand, air conditioning systems, pool materials/parts, other construction materials, cartons, gypsum board, wood, excelsior (softwood shavings), rubber, and plastics. A toilet(s) placed out for collection is not considered Construction and Demolition Debris.

Commercial Container, means a metal or plastic Receptacle for nonresidential refuse, also known as a dumpster, designed to be lifted and emptied mechanically. This term includes collection boxes for used clothing.

Compactor, means any enclosed container equipped with a device which presses Garbage together.

Contamination, means any material that is not accepted in Curbside Recycling Collection such as Garbage and is included in the recycling any item deemed hazardous, radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or hazardous waste as defined

by applicable state law. Example hanging file folders, copy paper wrappers, carbon paper, waxed cartons, all types of batteries, bubble wrap, kitchen waste, hard cover books, thermal fax paper, all types of Styrofoam, and plastic bags. The current list of Contamination items is available online on the City's website.

Curbside Recycling Collection, means a service provided to residential households for the collecting and disposal of recyclable materials, as defined in the current recycling materials processing contract and is available online on the City's website.

Director, means the Director of the department designated by the city manager to enforce and administer this article or the Director's authorized representative.

Franchisee, means an individual or corporation who has been issued a solid waste collection franchise under this article.

Garbage, means any worthless, unnecessary, offensive matter or solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

Garbage Bag, means a plastic bag any color other than blue or red which meets the material specifications set forth in this chapter.

Industrial Waste, means all residue or waste resulting from manufacturing or industrial operations or processes.

Large Cardboard Box, means a cardboard box of sufficient size to have contained, but not limited to, a refrigerator, household appliance, electronics, furniture, etc.

Person, means an individual, corporation, government or governmental subdivision, or an agency, trust, partnership, or two (2) or more Persons having a joint or common economic interest

Places of Worship, means building where individuals or a group of people such as a congregation come to perform acts of devotion, veneration, or religious activity.

Putrescible Waste, means organic waste, such as Garbage, wastewater treatment plant sludge, and grease trap waste, that is capable of being decomposed by microorganisms with sufficient rapidity as to cause odors or gases or is capable of providing food for or attracting birds, animals, and disease vectors.

Recycling Bag, means a blue translucent plastic bag used to contain recycling materials that meets the specifications of this chapter.

Receptacle, means a vessel or container including Recycling Bags, Garbage Bags, Roll-off Containers, and Compactors used for the purpose of holding solid waste materials.

Residence, means a structure intended for the use and occupancy as a dwelling unit, including but not limited to structures intended for use and occupancy as a single family, duplex or triplex.

Roll-off Container, means an open top Roll-off Container, typically used to dispose of Construction and Demolition Debris that must be serviced by a truck equipped with a roll-off hoist.

Sanitary Landfill, means a method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the refuse to the

smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

Service Provider, means any Person or business providing service to a Person which produces Garbage, Construction and Demolition Debris (C&D), Brush or Bulky Items.

Small Commercial Customer, means Small Commercial Customers are retail or light commercial type of businesses which generate an average of no more than fifteen (15) Garbage Bags of Garbage per collection day.

Solid Waste Collection Service, means the business of removing wet or dry solid waste from any premises

Street, shall mean an improved public road surface designed and used for vehicular traffic and providing primary public and private access and service, or private road conforming to public Street and subdivision standards.

Weight Limitations, means the total weight of any Garbage Bag or Recycling Bag and contents shall be fifty (50) pounds or less.

Sec. 33-2. Disposal of Industrial Waste.

All Industrial Waste shall be disposed of by the owner or occupant of the premises where such wastes accumulate unless a specific contract is entered into with the city for collecting and disposing of such Industrial Waste.

Sec. 33-3. Throwing container of Garbage into Streets, etc., prohibited.

It shall be unlawful for any Person to throw or scatter Garbage, Brush, Bulky Items, Construction and Demolition Debris, Industrial Waste, Putrescible Waste into or onto any public Street, public right of way, public easement or public property.

Sec. 33-4. Depositing of prohibited items on private property without permission prohibited.

It shall be unlawful for any Person to throw or deposit Garbage, Brush, Bulky Items, Construction & Demolition Debris, Industrial Waste, Putrescible Waste in or on any private property, not belonging to or under the control of such Person.

Sec. 33-5. Waste from building construction.

Construction and Demolition Debris will not be removed by the city as a regular service but can only be collected as part of its Roll-off Container service. Otherwise, the owner shall have such Construction and Demolition Debris removed at their expense privately.

ARTICLE II. GARBAGE CANS AND RECEPTACLES

Sec. 33-6. Duty to provide.

- (a) Every Person occupying a Residence shall provide sufficient Garbage Bags and/or Recycling Bags to hold the peak output of refuse from those premises.
- (b) Every owner, agent, lessee, occupant, or Person in charge of any public, commercial, business, and industrial establishment in the city shall provide Garbage Bags or Commercial Container(s) of sufficient number and size to hold the Garbage or Industrial Waste that will normally accumulate on the premises.

Sec. 33-7. Specifications.

- (a) Garbage Bags and Recycling Bags:
 - (1) Garbage Bags and Recycling Bags shall be a minimum of thirteen (13) gallons and no more than thirty (30) gallons in capacity.
 - (2) Garbage Bags and Recycling Bags contents shall not exceed the lesser of 50 pounds or the weight limit of that specific bag.
- (b) Compactors. All Compactors will meet the city specifications.

Sec. 33-7.1. Charges for plastic Garbage and Recycling Bags sold by city.

Charges for Garbage Bags and Recycling Bags shall be set at a rate of the city's annual bid prices plus applicable sales tax rounded up to the nearest whole dollar.

Sec. 33-7.2. Charges for kitchen grease collection bags sold by city.

Charges for bags for household collection of fats, oils, and grease shall be set at the city's annual bid price plus applicable sales tax rounded up to the nearest whole dollar.

Sec. 33-8. Closed or covering.

- (a) Garbage Bags and Recycling Bags shall at all times while outside be kept secure and closed except while the Garbage Bag or Recycling Bag is being filled.
- (b) The doors or covers of all Receptacles shall at all times be kept secure and fastened, and such doors or covers shall not be opened except while the containers are being filled or emptied.

Sec. 33-8.1. Location and screening of Commercial Containers.

- (a) No owner, occupant, or Person in control of the property shall cause or permit the placement of a Commercial Container, or other refuse storage facility in any of the following:
 - (1) In the open space between a building face and adjoining public right-of-way extending across the entire width of a lot or tract [the area commonly called the front yard or side yard];
 - (2) On curbs or in the public right-of-way;
 - (3) In a fire lane;
 - (4) In a required parking space;
 - (5) In any location that blocks vehicular or pedestrian traffic;
 - (6) To obstruct drivers' sight lines at the intersection of Streets and driveways; or
 - (7) To interfere with utilities.
- (b) The owner, occupant, or Person in control of the property who causes or permits the placement of a Commercial Container or other refuse storage facility, other than a publicly accessible Commercial Container solely for the collection of recyclable paper, shall screen the Commercial Container as follows:
 - (1) *Enclosure.*
 - a. If the Commercial Container is located in front of a building line, in a location visible from the view of a public Street or an adjoining single-family or public property, then on three (3) sides with a wall constructed of masonry, brick, stone, 24-gauge prefinished architectural metal panel, cementitious fiberboard, or similar material and approved accent materials stated in section 52-35c; or
 - b. If the Commercial Container is located behind the building line or building, in a location visible from view of a public Street or an adjoining single-family or public property, then on three (3) sides with a wall constructed of:
 - 1. Masonry, brick, stone, 24-gauge prefinished architectural metal panel, cementitious fiberboard, or similar material and approved accent materials stated in section 52-35c; or
 - 2. Stained cedar board-on-board fencing with six-inch-wide boards, three (3) runners, and a stained cedar cap rail. The fence shall be re-stained on a regular basis to maintain the original stained cedar color and the integrity of the cedar board; or
 - c. If the Commercial Container is on property that is zoned for retail uses and placed as far from the public Street as practical and there is no physical location behind the building for the Commercial Container, then screening must be constructed in accordance with the requirements provided in subsection (b)(1)b.
 - d. If the Commercial Container is on property that is zoned for industrial uses and placed as far from the public Street as practical, then screening is not required; however, any screening must be constructed in accordance with the requirements provided in subsection (b)(1)b.

- e. If the Commercial Container is behind a building and in a location not visible from the view of a public Street or an adjoining single-family or public property, then screening is not required; however, any screening that is constructed must be in accordance with the requirements provided in subsection (b)(1)b.

(2) *Gate.*

- a. If screening is required by subsection (b)(1)a., then on the fourth side with a double swing, blind gates constructed of wood or metal with stop pins or rods and corresponding holes drilled into the approach and pad to keep the gates open during the emptying process and securely closed at all other times; or
- b. If screening is required by subsection (b)(1)b. and the fourth side is visible from the view of a public Street, then on the fourth side with a double swing, blind gates constructed of wood or metal with stop pins or rods, and corresponding holes drilled into the approach and pad to keep the gates open during the emptying process and securely closed at all other times.

- (3) *Height.* Any screening wall and/or gate constructed in accordance with this subsection shall be at least one (1) foot higher than the Commercial Container it surrounds, but in no instance shall the screening wall and/or gate be shorter than four (4) feet or higher than nine (9) feet.

- (c) The owner, occupant, or Person in control of the property who causes or permits the placement of publicly accessible Commercial Containers solely for the collection of recyclable paper shall be limited to no more than two (2) bins per lot or parcel, placed as far from the public Street as practical. If such property abuts a single-family residential property, the owner, occupant, or Person in control of the property shall provide a screen as described in subsection (b)(1) on the side adjacent to the residential property.

- (d) The owner, occupant, or Person in control of the property shall provide and maintain a pad and approach for each Commercial Container that consists of five (5) inch, two thousand five hundred (2,500) P.S.I. concrete with #3 rebar on twenty-four-inch centers or six (6) inches by six (6) inch wire mesh reinforcement, or asphalt of comparable strength, or other approved paved surface.

- (e) It is an affirmative defense to this section that:

- (1) The Commercial Container is located behind a building and is not visible from a public Street or adjoining single-family or public property;
- (2) The Commercial Container is for the temporary purpose of disposing of waste generated during the time of an active building permit for the demolition or construction of improvements on the property upon which the Commercial Container is located;
- (3) The Commercial Container was placed by or upon written authority of the Director of solid waste services on a temporary basis; or
- (4) The Commercial Container is a part of a City of Irving attended full service drop off recycling center.

(g) *Modification procedures.*

- (1) A modification to the provisions of this section may be granted in the following areas:
 - a. Setback regulations; and

- b. Location requirements.
- (2) A modification shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to grant a modification to the provisions of this section it must be determined that:
 - a. The requested modification does not violate the intent of this section;
 - b. The requested modification will not adversely affect surrounding properties;
 - c. The requested modification will not adversely affect public safety; and
 - d. Special conditions exist which are unique to this property which make compliance with the regulation extremely difficult.

Sec. 33-9. Location.

- (a) Garbage Bags and Recycling Bags shall be placed at the location designated by the city as the most accessible for collecting and removing the same. Tree limbs, trunks, and hedge cuttings shall not exceed four (4) feet in length and two (2) feet in diameter.
- (b) The city refuse collection in residential areas shall be conducted from Streets only except as hereafter provided.
- (c) If an organization representing a subdivision having private alleys desires that the alleys be used for refuse collection and requests the city to provide such alley service, the city may, at its sole discretion, agree to this request under the following conditions, and reserves at all times the right to require that refuse be placed for collection from the Street:
 - (1) The representing organization shall be a legal organization of all property owners in the subdivision and shall be empowered and capable of maintaining the alleys as provided herein.
 - (2) Publicly owned alleys shall not receive refuse collection.
 - (3) Plats for the subdivision represented by the organization shall explicitly allow alley access to refuse collection, provided the city and its contractors shall not be responsible for damage to pavement resulting from refuse collection service, and shall assume responsibility for all repair and maintenance of the pavement and related structures. In the absence of plat notes as described above, the same provisions shall be incorporated in a separate agreement provided by the representing organization.
 - (4) Request for service shall be in writing and shall include:
 - a. A copy of the resolution of the organization authorizing the request.
 - b. A plat showing all properties and alleys in the subdivision and the designation of which alleys are to be served.
 - c. Evidence of representation, of empowerment, and of capability as described in subsection 33-9(d)(1) above.
 - d. Agreements as described in subsection 33-9(d)(3) above.
 - e. As-built construction plans of all alleys to be served demonstrating compliance with design criteria herein required.

- (5) Alley width of the pavement shall be no less than sixteen (16) feet.
- (6) Alley pavement shall be reinforced concrete no less than six (6) inches thick with strength, reinforcement spacing, and subgrade conforming to city standards for public alleys.
- (7) Minimum inside radius of all curves shall be no less than twenty-seven (27) feet.
- (8) Maximum pavement slope shall be nine (9) percent. Maximum cross slope shall be one-half (½) inch per foot.
- (9) Overhead clearance shall conform to the City Electrical Code ordinance.
- (10) Sharp drop-offs from the edge of pavement shall have a slope no greater than one (1) vertical to four (4) horizontal, or the pavement shall have a curb and there shall be a guardrail at that location.
- (11) Length of vertical curves shall be such as to allow the driver of the refuse truck to see a six-inch high object on the pavement no less than one hundred (100) feet in front of the vehicle.
- (12) Dead end alleys shall not be served.
- (13) Alleys shall at all times be maintained as follows by the requesting representative organization:
 - a. Alleys shall be kept free of debris, accumulations of algae and zoogeal growth, overhanging limbs, fallen trees, fences or structures, and blockages by traffic, utility work, construction or any other cause which interferes with or prevents refuse collection as scheduled.
 - b. Alleys with ice shall be promptly and sufficiently sanded to render them safely passable for refuse collection as scheduled.
 - c. Proper drainage shall be maintained.
 - d. Pavement failure shall be promptly repaired.
 - e. Failure to provide maintenance as described above may cause temporary interruption of scheduled service and/or cancellation of refuse collection in alleys.
- (14) Brush shall not be collected in alleys but at curbside.

Sec. 33-10. Maintenance.

It shall be the duty of each Person to keep and maintain any Receptacle required by this article in such a manner that it shall not become or constitute a public nuisance to or in the neighborhood of such premises.

Sec. 33-12. Deposit of animals or fowl in Receptacles prohibited.

Animals and fowl shall not be placed in a Receptacle required by this chapter.

ARTICLE III. COLLECTION AND REMOVAL OF GARBAGE

Sec. 33-13. Residential curbside collections.

City may not provide collection service if the rules and regulations under this chapter are not followed or if any material is not placed or prepared as set forth in this chapter.

Residents shall have all materials , placed at the curb no earlier than 6:00 p.m. on the day before their collection day and no later than 7:00 a.m. on the morning of their collection day; materials placed out after 7:00 a.m. on the day of collection may not be collected as the collection truck may have passed by the address; materials placed out after 7:00 a.m. on the day of collection and not collected must be removed from the curb; collection days are subject to change and are listed on the City's website.

- (a) All materials must be placed in a Garbage Bag or a Recycling Bag or be disposed of in an approved way under this Chapter. All Garbage waste in excess of 8 bags shall not be collected. All Garbage Bags in excess of 8 shall be placed behind a screened wall away from public view until the next scheduled pick-up.
- (b) Curbside recycling shall be placed in a Recycling Bag.
- (c) Cardboard boxes must be broken down to be collected, other than Large Cardboard Boxes. Boxes broken down should be placed under a Recycling Bag and will be collected as recycling.
- (d) Large Cardboard Boxes do not have to be broken down to be collected but must be empty.
- (e) Any Bulky Items in excess of four (4) items on any pick-up day shall not be collected.
- (f) Brush shall be less than 2 feet in diameter and cut to no more than 4 feet in length, stacked neatly with the cut ends toward the Street at the curb line. Brush consisting of small pieces, small cuttings, and small loose material shall be placed in approved Garbage Bags. No unit, piece, or bag shall weigh more than 50 pounds.
- (g) All items set out for collections shall be set in an area free from obstructions (i.e., overhead lines, gas meter, water meter, fire hydrant, parked cars, mailbox, etc.)
- (h) All Brush, Bulky Items, Construction and Demolition Debris (C&D), and Garbage, Industrial Waste, Putrescible Waste produced by a Service Provider must be removed by the Service Provider. The City shall not collect Brush, Bulky Items, Construction & Demolition Debris (C&D), Garbage, Industrial Waste, or Putrescible Waste, produced by the Service Provider.

Sec. 33-13.1 Prohibited curbside collection items.

- (a) Garbage, Brush, Bulky Items, Construction & Demolition Debris (C&D), Industrial Waste, Putrescible Waste, placed in Garbage cans at the curb shall not be collected by the city.
- (b) Contaminated recycling shall not be collected. Recyclable items are subject to change. For a full list of recyclable items please refer to the City of Irving website.
- (c) Used or scrap tires shall not be collected curbside. All tires shall be removed by the owner at the owner's own expense. Up to 5 passenger vehicle tires per calendar year, per address, may be taken to the City of Irving Landfill to be recycled, at no charge. Passenger vehicle tires in excess of 5 tires per calendar year will be assessed a \$5.00 per tire, recycling fee.

- (d) Construction & Demolition Debris (C&D) of any kind will not be collected by the city and Construction & Demolition Debris (C&D) that containments any other materials shall not be collected including those materials which would normally be collected under this Chapter.

33-13.2. Reserved.

Sec. 33-14. Monthly charges for residential customers.

- (a) Residential customers shall pay a regular charge for each month or part thereof for such refuse pickup service, as provided in article V. of this chapter.
- (b) Residential customers age sixty-five (65) or older who are the responsible occupant may upon completion of an application and proof of age be granted a twenty (20) percent reduction in the monthly charge for residential single-family sanitation service. The discounted rate shall be effective on the first billing date following receipt of said application and proof of age. A responsible occupant is defined as an individual residing at the address and in whose name the account has been established.
- (c) Residential customers receiving social security disability income as a result of a disability who are the responsible occupant may upon completion of an application and proof of being a recipient of social security disability income due to a disability be granted a twenty (20) percent reduction in the monthly charge for residential single-family sanitation service. The discounted rate shall be effective on the first billing date following the processing of said application and proof of age. A responsible occupant is defined as an individual residing at the address and in whose name the account has been established.
- (d) No customer or account shall receive more than one (1) discount.

Sec. 33-15. Monthly charges for all other customers besides residential.

- (a) Curbside bag collection service is available to Small Commercial Customers who make an application for solid waste services. Fair and reasonable charges for commercial bag service are hereby determined to be forty-three dollars (\$43.00) per month for the collection of fifteen (15) Garbage Bags per collection day.
- (b) Curbside bag collection service is available to Places of Worship who make an application for solid waste services. Fair and reasonable charges for curbside bag service for Places of Worship are hereby determined to be thirty-two dollars and fifty cents (\$32.50) per month for the collection of fifteen (15) Garbage Bags per collection day.

Sec. 33-16. Mandatory payment for Garbage service.

Any Person making an application for water service and posting a deposit with the city water department will pay the minimum charge that is applicable for Garbage service even if the city service is available and is not used.

Any Small Commercial Customer or Place of Worship making an application for water service and solid waste services will post a deposit with the city water department and will pay the minimum charge that is applicable for Garbage service even if the city service that is available and is not used.

The city shall collect the charges set forth in this article by adding the monthly water bill for each customer. Failure to pay any charges under this article for Garbage collection service shall be considered notice by the customer to the city to discontinue water service and Garbage service and shall authorize the city to apply the customer's deposit to the satisfaction of the past-due bill.

Sec. 33-17. Garbage collection permit—Required.

Only the duly authorized agents and employees of the city shall collect refuse, empty refuse containers, or convey or transport refuse, Garbage on the Streets, alleys, and public thoroughfares of the city without a franchise agreement granted and issued by the city council with the exception that Irving resident owners or public institutions, churches, businesses, and industrial firms that used a vehicle less than one (1) ton to haul their own refuse shall not be required to have a permit to do so.

Sec. 33-18. Roll-off Container service.

(a) The city will provide a Roll-off Container service on the following basis:

- (1) *Customers.* The city will provide Roll-off Container service to a residential customer, with proof of a current city water account in their name, or to a commercial customer, a business, church, governmental agency, or other entity, with proof of business status and location within the city.
- (2) *Terms of service.*
 - a. *Agreement required.* Each customer must sign a written agreement, pay the applicable use fees, and agree to comply with all policies and procedures applicable to the use of the Roll-off Container service.
 - b. *Scheduled disposal.* Scheduled disposal for residential customers includes delivery of a Roll-off Container to the customer's premises, setup, fourteen-day rental, collection, and disposal at the landfill. Scheduled disposal for commercial customers includes the fourteen-day rental period, collection, and disposal at the landfill; however, delivery is at an additional charge.
 - c. *Delivery.* Delivery to and setup of a Roll-off Container at a customer's premises by city personnel will result in the assessment of a delivery fee in all circumstances other than the first delivery under an agreement with a residential customer.
 - d. *Additional disposal.* Customers may request the collection and disposal of a Roll-off Container additional times during the rental period, at the applicable additional disposal fee for the container size being used, subject to the availability of staff. Same day service is not guaranteed.
 - e. *Relocation.* A customer may request that a Roll-off Container be relocated, provided the new location is suitable and approved by the Director, and upon payment of a relocation fee, as provided in article V. of this chapter.
 - f. *Accessibility.* A customer is required to maintain minimum clearances to provide access to the Roll-off Container for servicing at all times, as provided in the service agreement, and an inaccessible fee will be charged as provided in article V. of this chapter, if the staff attempts to collect a container at the customer's location and determines that the container is inaccessible due to the customer's failure to maintain minimum clearances.

- g. *Payment.* All customers must pay the charges with cash or a city-accepted credit card. Customers without an active water account must pay the delivery fee, if applicable, and scheduled disposal fee, at the time the order is placed.
 - h. *Construction and Demolition Debris (C&D).* Roll-off Containers set for Construction and Demolition Debris (C&D) shall be limited to twelve-yard and twenty-yard containers only.
- (b) *Fees for Roll-off Containers.* Fees for Roll-off Containers will be charged as provided in article V. of this chapter.
- (c) *Pass-through charges.* Landfill fees, gate rates, and other costs resulting from local, state, or federal solid waste regulations charged to the city shall be passed through and be added to the rate schedules on the effective date of such regulations.

Sec. 33-18.1. Statement of policy.

Recognizing the need for waste and recyclable material collection and hauling services to be operated in a safe and efficient manner, the City of Irving has established the requirements in this article.

Sec. 33-18.2. Authority of Director.

- (a) The Director shall implement and enforce this article and may by written order establish such rules or regulations, consistent with this article, as the Director determines are necessary to discharge any duty under or to affect the policy of this article.
- (b) The Director shall have the authority to initiate action to correct any vehicle, dumpster, or Roll-off Container:
- (1) Whose contents have become foul or offensive; or
 - (2) That is being used for the collection of waste material in violation of this article.
- Correction may include but is not limited to:
- i. Contacting Franchisee to facilitate correction;
 - ii. Directing the disposing of the contents of a fouled dumpster, roll-off, Compactor container, trailer, or vehicle at a location of the city's choice and remedy costs would accrue to the Franchisee; and
 - iii. Taking any other legally permissible action that the Director deems appropriate.
- (c) A vehicle, dumpster, Roll-off Container, Compactor or trailer impounded under a correction order may not be returned to service without the consent of the Director unless the contents are disposed of, the vehicle, dumpster, Roll-off Container, Compactor, or trailer is cleaned and brought into compliance with this article, and if any costs are incurred by the city in making the correction, these correction costs must be reimbursed to the city.

Sec. 33-18.3. Exclusions.

No provision of this article, except sections 33-18.3, 33-18.20 (a) and (b), 33-18.24, 33-18.25, and 33-18.26, shall apply to a Solid Waste Collection Service:

- (1) Operated by a governmental entity;
- (2) Operated by a Person who gathers clothes, salvageable newspaper, or other recyclable material, as long as the material being collected has not been set out for collection by or for city forces;
- (3) In which a vehicle is not operated more than twice during any calendar year to remove dry or wet solid waste from any premises;
- (4) Operated by a Person who collects medical - bio-hazardous waste;
- (5) Operated by a Person engaged in collecting Construction and Demolition Debris; or
- (6) Operated by a Person engaged in collecting of landscape waste.

Sec. 33-18.4. Franchise and permit required.

A Person who operates a Solid Waste Collection Service within the city without a valid solid waste collection franchise issued under this article commits a criminal offense.

Sec. 33-18.5. Franchise application.

To obtain a solid waste collection franchise, a Person must submit an application on a form provided for that purpose to the Director. The Applicant must be the Person who will own, control, or operate the proposed Solid Waste Collection Service. The application must be verified and contain the following information:

- (1) The Applicant's name, address, and verified signature;
- (2) The form of business of the Applicant, and, if the business is a corporation or association, a copy of the documents establishing the business;
- (3) A description of any past business experience of the Applicant, particularly in providing Solid Waste Collection Service, and an identification and description of any revocation or suspension by the city of a solid waste collection franchise held by the Applicant or business before the date of filing the application;
- (4) The number and description of vehicles the Applicant proposes to use in the operation of the Solid Waste Collection Service, including year, make, model, vehicle identification number, and state franchise registration number for each vehicle;
- (5) The number of dumpsters and Roll-off Containers, whether or not owned by the Applicant, with which the proposed service will collect solid waste.
- (6) A description of the proposed Solid Waste Collection Service;
- (7) Documentary evidence from an insurance company indicating a willingness to provide liability insurance as required by this article;
- (8) Documentary evidence of payment of ad valorem taxes owed on the real and personal property to be used in connection with the operation of the proposed Solid Waste Collection Service if the business establishment is located in the city; and
- (9) Such additional information as the Applicant desires to include to aid in the determination of whether the requested franchise should be granted.

Sec. 33-18.6. Fees.

- (a) Amount and calculation of fees.
 - (1) The annual fee shall be five (5) percent of gross revenues for service provided by the Franchisee in the City of Irving servicing dumpsters, Roll-off Containers, Compactor, collection in refuse vehicles or collecting and hauling refuse in open top trucks, owned or not owned by the Franchisee, that is serviced by the Franchisee used in the City of Irving.
 - (2) The calculation of gross revenues generated from operation within the city shall include all revenue, as determined in accordance with generally accepted accounting principles, which is derived, directly or indirectly, by the Franchisee from or in connection with its operation within the city. Gross revenues shall include but are not limited to revenues received from the collection and disposal of all solid waste, whether by a company bearing Franchisee's name or a company owned or controlled by Franchisee but operating under a different name.
- (b) That portion of the annual fee attributable to subsection (a)(1) above must be paid in a manner and on a schedule approved by the Director.
- (c) The annual fee shall be paid quarterly, no later than thirty (30) days after the end of each calendar quarter. The payment shall be made to the City of Irving Financial Services Department. No refund of a fee will be made.
- (d) Fee payments received after the due date shall be subject to interest at the rate of twelve (12) percent per annum until the fees are paid in full. In addition, delinquent fees shall be subject to a late payment penalty of five (5) percent for each month or portion thereof that the fees are outstanding. In no event, however, shall the penalties exceed twenty-five (25) percent of the total delinquent fees nor shall interest charged exceed the maximum rate allowed by law.

Sec. 33-18.7. Issuance, denial, and display of franchise and permit.

- (a) A solid waste franchise may be issued to the Applicant only if the Director determines that the Applicant:
 - (1) Complied with all requirements for issuance of the franchise; and
 - (2) Has not made a false statement in the application for a franchise.
- (b) Upon issuance of a franchise to an Applicant, satisfactory completion of all inspections required by this article, and payment of all required fees, the Director shall issue a permit for each vehicle to be operated by the Applicant in the Solid Waste Collection Service.
- (c) If the Director determines that the requirements of subsection (a) above have not been met, the Director shall not recommend that a solid waste collection franchise be granted to the Applicant.
- (d) If the city council determines that an Applicant should be denied a solid waste collection franchise, the Director shall notify the Applicant in writing that the application is denied.
- (e) A franchise and permit issued under this section must be displayed in a manner and location approved by the Director. A franchise and permit must be presented upon request to the Director or to a peace officer for examination.

Sec. 33-18.8. Revocation of a franchise.

- (a) The city council may revoke any solid waste collection franchise if the Franchisee:
 - (1) Fails to comply with any provision of this article, any other city ordinance, or any state or federal law applicable to the collection and disposition of solid waste material;
 - (2) Makes a false statement in the application or in a hearing concerning the solid waste collection franchise; or
 - (3) Fails to pay a fee required by the article at the time it was due.
- (b) Before revoking a franchise under subsection (a) above, the Director shall notify the Franchisee in writing that the Franchisee is being considered for revocation. The notice must include the reason for the proposed revocation and a statement that the Franchisee has ten (10) days to comply with the notice.
- (c) The city council, after due notice and hearings, may revoke a franchise.

Sec. 33-18.9. Amendments to franchise.

- (a) Minor amendments to a solid waste collection franchise may be made by the city council upon written request by a Franchisee. An amendment that substantially changes the scope of the franchise must be applied for in the same manner as the original franchise.
- (b) Before any vehicle not listed in the application for a solid waste collection franchise may be placed in service by a Franchisee, the Franchisee must notify the Director of the additional vehicle, and meet any requirements set by the Director and the Director must agree to the additional vehicle in writing.

Sec. 33-18.10. Expiration and renewal of franchise; voidance of authority to operate vehicles, collection trailers and service dumpsters, Roll-off Containers, and Compactors.

- (a) A solid waste collection franchise may be renewed upon the expiration of the agreement by making an application in accordance with section 33-18.6. A Franchisee shall apply for renewal at least sixty (60) days before the expiration of the franchise.
- (b) Any permit to operate a vehicle and any authorization to service a dumpster or Roll-off Container, Compactor, or trailer granted under this article expires upon expiration, revocation, suspension, or nonrenewal of the accompanying solid waste collection franchise.
- (c) Should a Franchisee have its franchise revoked, the Franchisee may be granted a period of time, up to a maximum of six (6) months, by the Director to conclude its solid waste business in the City of Irving, as long as the Franchisee continues paying the set franchise fee and maintains the required insurance requirements.

Sec. 33-18.11. Nontransferability.

- (a) A solid waste collection franchise issued to one (1) Person may not be transferred to another Person without authorization by the city council.
- (b) A solid waste collection permit issued for one (1) vehicle may not be transferred to another vehicle without written permission of the Director.

Sec. 33-18.12. Insurance; suspension of franchise.

- (a) It is unlawful for the holder of a solid waste collection franchise to operate a solid waste collection business unless said holder shall maintain in force during the authorized period of its operating authority the amount and character of insurance coverage for all motor vehicles used in the Solid Waste Collection Service as follows:
- (1) A one million dollar (\$1,000,000.00) per occurrence combined single limit liability policy with a deductible not to exceed one thousand dollars (\$1,000.00) which shall pay on behalf of the insured named therein and any other Person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, all sums which the insured shall become legally obligated to pay as damage arising out of the operation of the Solid Waste Collection Service or the ownership, maintenance or use of such motor vehicles or motor vehicles operated by independent contractors or vehicles operated for or on behalf of the franchise holder;
 - (2) Carried with an insurance company authorized to do business in the State of Texas;
 - (3) Including a cancellation rider under which the insurance company is to renotify the city in writing no later than thirty (30) days before making a material change to the insurance policy;
 - (4) Providing that the city is an additional named insured;
 - (5) Providing coverage for all solid waste collection vehicles operating under the name of the franchise holder whether said solid waste collection vehicles are owned, leased, hired or contracted and liability coverage for the drivers operating said solid waste collection vehicles, whether on or off duty; and
 - (6) Containing a provision for a continuing liability thereon up to the full amount thereof, notwithstanding any recovery thereon.
- (b) The insurance policy required by this chapter shall be filed with the Director five (5) working days prior to the time any solid waste collection vehicle operated by the holder is operated upon city Streets.
- (c) The holder shall secure written confirmation from the city that the policy meets the requirements of this section before operating any solid waste collection vehicle on the Streets of the city.
- (1) Except as provided in subsection (g) below, a Franchisee shall procure and keep in full force and effect automobile and truck liability insurance written by an insurance company approved by the State of Texas and acceptable to the city and issued in the standard form approved by the Texas Department of Insurance. All provisions of the policy must be acceptable to the city. The insured provisions of the policy must name the city and its officers and employees as additional insured, and the coverage provisions must provide coverage for any loss or damage that may arise to any Person or property by reason of the operation of a Solid Waste Collection Service by the Franchisee.
 - (2) The automobile and truck liability insurance must provide combined single limits of liability for bodily injury and property damage of not less than five hundred thousand dollars (\$500,000.00) for each occurrence, or the equivalent, for each motor vehicle used by the Franchisee, with a maximum deductible of not more than the deductible allowed under the Texas Safety Responsibility Act, as amended. Aggregate limits of liability are prohibited.

- (d) Insurance required under this section must include:
 - (1) A cancellation provision in which the insurance company is required to notify the Director in writing not fewer than thirty (30) days before canceling, failing to renew, or making a material change to the insurance policy; and
 - (2) A provision to cover all vehicles, whether owned or not owned by the Franchisee, operated under the Franchisee's solid waste collection franchise.
- (e) No insurance required by this section may be obtained from an assigned risk pool.
- (f) A solid waste collection franchise will not be granted or renewed unless the Applicant or Franchisee furnishes the Director with such proof of insurance as the Director considers necessary to determine whether the Applicant or Franchisee is adequately insured under this section.
- (g) If the insurance of a Franchisee lapses or is canceled and new insurance is not obtained, the Director shall suspend the franchise until the Franchisee has provided evidence that insurance coverage required by this section has been obtained. A Person may not operate a Solid Waste Collection Service while a franchise is suspended under this section whether or not the action is appealed.
- (h) This section does not apply to any Person who:
 - (1) Operates a Solid Waste Collection Service only to remove, transport, or dispose of wet or dry solid waste actually generated by the Person's own business; and
 - (2) Does not receive any compensation for operating a Solid Waste Collection Service.

Sec. 33-18.13. Location and inspection of Franchisee's records and reports.

Each Franchisee shall maintain at a single location business records of its Solid Waste Collection Service within a fifty-mile radius of the City of Irving. A Franchisee shall make its records available for inspection by the Director at reasonable times upon request.

Sec. 33-18.14. Annual reports.

By February 1 of each year, a Franchisee shall file an annual report with the Director containing the following information for the preceding calendar year concerning solid waste and recyclable materials collected by the Franchisee within the city:

- (1) Total volume in tons of wet and dry solid waste collected by the Franchisee, with separate figures for total residential waste and total commercial waste.
- (2) Total volume in tons of waste materials recycled by the Franchisee, with separate figures for total recycled residential waste and total recycled commercial waste.
- (3) A description and the total volume in tons of each type of waste material recycled.

Sec. 33-18.15. Failure to pay ad valorem taxes.

A Franchisee or an Applicant for a franchise shall not allow the payment of ad valorem taxes upon any vehicle, equipment, or other property used directly or indirectly in connection with the Solid Waste Collection Service to become delinquent.

Sec. 33-18.16. Notification of change of address or ownership.

A Franchisee shall notify the Director within ten (10) days of a change in:

- (1) The address or telephone number of the Solid Waste Collection Service; or
- (2) The form of the business or the officers of the corporation of the Solid Waste Collection Service.

Sec. 33-18.17. Vehicle inspection.

The Franchisee shall properly maintain each of its vehicles in compliance with the Department of Transportation's requirements pertaining to the vehicle class being used in its Solid Waste Collection Service in the City of Irving. The Director may request an inspection of a Franchisee's vehicles to assure compliance with the Department of Transportation's requirements and for other reasons as deemed necessary by the Director.

Sec. 33-18.18. Requirements for solid waste collection vehicles.

- (a) Any vehicle used for transporting dry solid waste material within the city must:
 - (1) Be fitted with a substantial, tight-fitting enclosure that is free of any cracks or breaks and that has side boards and headboards of not less than twenty-four (24) inches in height and tail board of not less than eighteen (18) inches in height, to prevent waste material from being scattered or thrown onto the Streets; and
 - (2) Be equipped with a closely fitting cover that must be used to prevent the escape of loose material or effluvia.
- (b) Any vehicle used for transporting wet solid waste material within the city must:
 - (1) Be fitted with a substantial, tight-fitting enclosure, with the deck, sides, and ends of the bed constructed of sheet steel so that the vehicle may be easily cleaned and with the sides not less than twenty-four (24) inches high and the tail board not less than eighteen (18) inches high;
 - (2) Have a tight-fitting cover to prevent spillage;
 - (3) When carrying cans to transport wet solid waste material, use only cans equipped with tight-fitting lids and holding chains so that the cans will not turn over and spill; and
 - (4) Not have any drain holes in the sides of the vehicle and must have any drain holes in the deck of the vehicle must be securely capped to prevent spillage or leakage.
- (c) Any vehicle used for transporting dry or wet solid waste material within the city must:
 - (1) Be clean and odor free prior to each day's work;
 - (2) Contain evidence of insurance required by this chapter;
 - (3) Have a valid permit issued by the Director placed on the vehicle in a place and manner designated by the Director;
 - (4) Be equipped with any other equipment required to comply with all applicable federal and state motor vehicle safety standards; and

- (5) Be equipped with any other special equipment that the Director determined to be necessary for the Solid Waste Collection Service to be operated.

Sec. 33-18.19. Identification of vehicles, dumpsters, and Roll-off Containers.

- (a) Every vehicle operated by a Solid Waste Collection Service must have the company name and the vehicle permit number, if issued by the city, conspicuously displayed on the vehicle in a manner and location approved by the Director.
- (b) Every dumpster, Roll-off Container, Compactor and open top truck being used in the collection of refuse, serviced by a Solid Waste Collection Service, must have the name of the company, contact phone number, and information clearly stating materials unacceptable for collection displayed on the dumpster, Roll-off Container, Compactor and open top truck being used in the collection of refuse in a manner and location approved by the Director.

Sec. 33-18.20. Responsibility of producer of dry or wet solid waste.

It is the responsibility of the producer of any dry or wet solid waste to ensure that such waste material is disposed of in an approved manner at an approved disposal site. It is the producer's responsibility to inform the Franchisee, in writing, of any waste that includes any material that is hazardous by reason of its pathological, radiological, explosive, toxic, or corrosive character.

Sec. 33-18.21. Hazardous waste material—Compliance with state and federal laws.

A Person providing Solid Waste Collection Service within the city shall comply with all city ordinances and state and federal laws regulating the handling, disposal, and transportation of hazardous waste materials.

Sec. 33-18.22. Restrictions on removal of solid waste.

- (a) A Person commits an offense if they remove from any Garbage container or Receptacle any dry or wet solid waste, or in any way interferes with any Garbage container or Receptacle.
- (b) It is a defense to prosecution under subsection (a) of this section that the Person was:
- (1) A governmental employee in the performance of official duties;
 - (2) A Franchisee under this article performing Solid Waste Collection Service in compliance with the terms of this article and the solid waste collection Franchise;
 - (3) Any owner or occupant of the premises on which the Garbage container or Receptacle is located.
- (c) Collection shall not be made within three hundred (300) feet of a Residence earlier than 6:00 a.m., or later than 8:00 p.m., Mondays through Saturdays, and not at all on Sundays.
- (d) Collection times and traffic patterns at schools shall be coordinated with the school to avoid student drop-off and pick-up traffic and minimize noise during the school day.

- (e) This franchise shall apply only to the collection, transportation, handling, processing, and disposal of municipal solid waste as defined by the Texas Commission on Environmental Quality or successor agencies, and to recyclable materials which have been diverted from the municipal solid waste stream.
- (f) Liquid waste, as defined by the Texas Commission on Environmental Quality or successor agencies, shall not be mixed with municipal solid waste.
- (g) Public alleys serving residential areas may not be used for access by waste or recyclable material collection trucks, unless alley is in conformance with standards set in section 33-9 of this chapter.
- (h) In the event of disaster, franchise holders will be expected to assist in cleanup by making additional collection equipment available to the city as required at regular rates.
- (i) Applicant shall file annually a listing of the various kinds of service available to customers.
- (j) Franchise holder's trucks shall be in good repair, properly registered with the Director, inspected, and covered by insurance, and shall at all times be within legal wheel load limitations.
- (k) Franchisee shall provide containers to customers that are sufficient in size and number to hold the waste generated between scheduled collections. The scheduled collection frequency shall be a minimum once a week or of sufficient frequency, more than minimum, to remove Garbage before odor or litter problems develop. The Franchisee shall maintain all containers in good repair, free of rust damage and broken sides, tops, or bottoms, with properly operating lids, and shall keep them clean, free of accumulations of grime, objectionable material, and graffiti.
- (l) Franchisee shall coordinate collections and equipment features (e.g., locking devices) with customers so as to minimize the opportunity for scavenging of refuse by others.
- (m) Franchisee shall coordinate with customers so as to maintain the area surrounding waste or material containment equipment clean, and free from odors, accumulated debris, litter, vermin, and graffiti. Coordination with customer may include requiring upgrading size or number of containers or collections in the event the collection site is identified as a nuisance.
- (n) Franchisee shall require a customer to keep off-road access to solid waste containers in good repair, free from ruts and holes, and of a design sufficient to support collection vehicles. Standing water in the access shall be drained or otherwise eliminated.
- (o) Special equipment provided by Franchisee for volume minimization, e.g., Compactors, shall be installed only in accord with the applicable codes and necessary permits, shall be free of hazard to operators, and to the public, and shall not constitute an attractive nuisance to children.
- (p) The franchise shall observe zoning ordinances and other applicable regulations in the placement of collection equipment. Collection equipment and Commercial Containers shall not be placed in the open space between a building face and adjoining a public right-of-way extending across the entire width of a lot or tract.
- (q) No franchise, customer, or any other Person shall place collection equipment or Commercial Containers:
 - (1) On curbs, or in the public right-of-way;
 - (2) In a fire lane;
 - (3) In a required parking space;

- (4) In any location that blocks vehicular or pedestrian traffic;
- (5) To obstruct intersection sight distances; or
- (6) To interfere with utilities.

Sec. 33-18-23 Restrictions on disposal of waste.

A Person engaged in the removal, handling, or transfer of dry or wet solid waste or in any manner dealing with dry or wet solid waste commits an offense if, either in Person or by an agent, employee, or servant, he separates, unloads, offers for sale or trade, or exchanges any part of the waste materials within the city, except at a place designated by and in compliance with this chapter and other applicable city ordinances.

Sec. 33-18.24. Accumulations and deposit of waste prohibited.

- (a) A Person commits an offense if he deposits, causes to be deposited, or permits to accumulate any dry or wet solid waste upon any public or private premises within the city in such a manner as to emit noxious or offensive odors or to become unsanitary or injurious to public health, or in any way to become a public nuisance.
- (b) It is a defense to prosecution under subsection (a) of this section that the Person was:
 - (1) Depositing such solid waste at a temporary disposal site designated by the Director as a temporary holding site in response to the need for clean-up after a disaster declared by the emergency coordinator, and
 - (2) The solid waste deposited was waste generated during the disaster.

Sec. 33-18. 25. Penalties for violation.

- (a) A Person who violates a provision of this article, or who fails to perform a duty required of him under this article, commits an offense. A Person is guilty of a separate offense for each day or part of a day during which a violation is committed, continued, or permitted.
- (b) An offense under this article is punishable by a fine of not more than two thousand dollars (\$2,000.00) and, upon a first conviction, not less than one hundred dollars (\$100.00).

Sec. 33-19. Operation of city Sanitary Landfill site.

- (a) *Schedule of disposal service charges; disposal of refuse collected outside city limits prohibited.* City of Irving landfill sites shall only be utilized for the disposal of refuse originating within the City of Irving city limits. The following disposal service charges are established for disposing of refuse at the City of Irving Sanitary Landfill site when said refuse is generated within the city limits of the City of Irving:
 - (1) The city charges by the ton and the rate as provided in article V. of this chapter. Charge(s) by the ton will be calculated to the nearest one-fourth (¼) ton.
 - (2) Earth, rocks and inert materials suitable for the cover of refuse will not be charged a fee.
 - (3) If the scale is not operating, a flat fee schedule will be in effect and assessed as provided in article V. of this chapter.

- (b) *Schedule of charges for materials sold at the landfill.* The city landfill site will sell mulch to residents or businesses. The mulch will be sold at a rate as provided in article V. of this chapter.
- (c) *Payment of disposal service charges.* Disposal service charges shall be payable by one (1) of the following methods at the discretion of the operator:
 - (1) Cash at Sanitary Landfill site; or
 - (2) City-accepted credit card.
- (d) *Authority to accept and reject wastes.* The Director of environmental services in consultation with the Director of Health shall have the authority to cause to be rejected, for processing or disposal, any material which, in his judgment, would create a nuisance by reason of emission of disagreeable odors, or would require special and unusual handling and/or record keeping, or would operate to make the processing or disposal facilities unwholesome or adversely affect the public health, safety, and welfare.
- (e) *Disposal limitations for certain wastes.*
 - (1) Class I wastes as defined by the Texas Department of Water Resources shall not be disposed of in the landfill.
 - (2) Special waste as defined by the Texas Commission on Environmental Quality shall not be disposed of in the landfill, except that dead animals may be accepted.
 - (3) Refuse originating outside the city limits shall not be disposed of in any city landfill site. If the operator of a vehicle presenting refuse for disposal at a city landfill site does not display to the landfill personnel a Texas Department of Public Safety vehicle operator's license indicating that the Residence of said vehicle operator is located within the city, then it shall be conclusively presumed that the refuse originated outside the city; however, display of such license shall not necessarily prove that refuse is of Irving origin.
 - (4) Tree stumps of trees with trunk diameters larger than four (4) inches shall not be disposed of in the landfill, except that root balls of no more than thirty-six (36) inches in any direction, of trees with a trunk diameter less than thirty-six (36) inches and stump height less than twenty-four (24) inches above the ground line, may be admitted.
 - (5) Concrete with or without reinforcement, rocks, or material of similar hardness, of dimension greater than twenty-four (24) inches in any direction, shall not be disposed of in the landfill.
 - (6) Should prohibited materials be deposited in the Sanitary Landfill, the vehicle carrying same shall be prohibited entry into the Sanitary Landfill for six (6) months.
- (f) *Salvaging, removing materials from site.* It shall be unlawful for any Person to take, remove or carry away from the Sanitary Landfill site operated by the city, any Garbage article, thing, or object situated thereon, whether or not the same has monetary value. In prosecutions for this offense, it shall not be necessary to describe the thing or things taken, removed or carried away other than as generally described herein or as "article," "thing" or "item" and it shall not be necessary to allege that the same had "value."

The city council shall award any contract for salvage rights at the city Sanitary Landfill site.

- (g) *Loads to be secured.* Vehicles and/or trailers accepted into the landfill site and not constructed with an enclosed transport body shall be using other devices, such as nets, canvasses, coverings, or tarpaulins to prevent blowing or spillage of loads. Vehicles not using such devices shall be

assessed an antilitter charge, pursuant to article V. of this chapter. In the event that scales are inoperative, the antilitter charge will be thirty (30) percent of the landfill charge, except that vehicles described in paragraph (a)(2) of section 33-19 of this Code shall be charged pursuant to article V. of this chapter.

- (h) *Waste originating outside the city* may be disposed of in the city landfill if it is waste received pursuant to a contract between the hauler or originator of the waste and the city for a defined disposal volume.

Sec. 33-19.1. Use of city landfill site by commercial waste disposal operators prohibited; penalty.

- (a) It shall be unlawful for any Person, firm, corporation, association, or entity operating a commercial waste disposal operation to deposit or dispose of or dump any Garbage, grass, trees, tree limbs, article, thing, or object in the city landfill.
- (b) Violation of subsection (a) of this section shall be punished by a fine not to exceed two thousand dollars (\$2,000.00), and each act of dumping, depositing, or disposing of shall constitute a separate offense.
- (c) A commercial waste disposal operation shall be defined as the collecting, handling, transporting and/or disposing either primarily or incidentally, of solid waste, as defined by the Department of Health, using any vehicle rated one (1) or more tons in capacity or trailers nine (9) feet or more in length; but shall not include a vehicle carrying a load of one and one-half (1½) tons or less, presenting not more than two (2) loads per day for disposal and which is certified pursuant to the procedure set forth in subsection (e), below, and is operated by a qualified operator.
- (d) A qualified operator shall be either:
 - (1) A resident of the city as demonstrated by the presentation of a valid driver's license bearing an address located within the city limits, or
 - (2) Employed by a business located within the city as demonstrated by both:
 - a. A copy of a tax bill, a water bill, or building permit, naming said business; and
 - b. A letter from said business, signed by an owner, officer, or general manager thereof, stating the following: name, address, and telephone number of said business; origin of waste; employee's name and vehicle license number.

ARTICLE IV. CONDITION OF PREMISE

Secs. 33-20—33-28. Reserved.

Sec. 33-29. Unlawful to use refuse service without payment.

It shall be unlawful for any Person to use the city refuse pickup service, or Sanitary Landfill, without paying the prescribed charge.

ARTICLE V. RATES AND FEES

Sec. 33-30. Monthly charges for Residences and apartments.

Each residential owner, and apartment unit owner shall pay a regular charge for each month or part thereof for such refuse pickup service, which monthly charge shall be as follows, plus the applicable sales tax:

- (1) One-family Residence \$35.25
 - a. One family Residence - senior citizen discount rate \$28.75
 - b. One family Residence - disabled citizen discount rate \$28.75
- (2) Each living unit of a duplex \$35.25
- (3) Each mobile home \$35.25

Sec. 33-31. Monthly charges for Small Commercial Customers and Places of Worship.

Each Small Commercial Customer, with a legal address making an application for solid waste service shall pay a regular charge each month for refuse pickup service, which the monthly charge shall be forty-five dollars and seventy-five cents (\$45.75) a month for pickup of eight (8) Garbage Bags each collection day.

Each Place of Worship making an application for solid waste service shall pay a regular charge each month for refuse pickup service, which the monthly charge shall be thirty-five dollars and twenty-five cents (\$35.25) a month for pickup of eight (8) Garbage Bags each collection day.

Sec. 33-33. Roll-off Container service.

- (a) *Relocation.* A customer may request that a Roll-off Container be relocated, provided the new location is suitable and approved by the City of Irving Solid Waste Services Department, and upon payment of a fifty-dollar (\$50.00) relocation fee.
- (b) *Accessibility.* A customer is required to maintain minimum clearances to provide access to the Roll-off Container for servicing at all times, as provided in the service agreement, and a fifty dollar (\$50.00) inaccessible fee will be charged if the staff attempts to collect a container at the customer's location and determines that the container is inaccessible due to the customer's failure to maintain minimum clearances.
- (c) *Fees for Roll-off Containers.* The following charges will apply for the services as designated, based on a standard fourteen (14) day rental agreement:

Container Size (in yards)	Roll Off Service Fee (14 Days)	Additional Disposal Fee
12	\$300.00	\$136.50
20	\$400.00	\$266.50
30	\$500.00	\$383.50

Sec. 33-34. City Sanitary Landfill site.

- (a) *Schedule of disposal service charges; disposal of refuse collected outside city limits prohibited.* City of Irving landfill sites shall only be utilized for the disposal of refuse originating within the City of Irving city limits. The following disposal service charges are established for disposing of refuse at the City of Irving Sanitary Landfill site when said refuse is generated within the city limits of the City of Irving:
- (1) The city charges by the ton when the scale is operating, the rate will be, per ton \$48.00
Charge(s) by the ton will be calculated to the nearest one-fourth (1/4) ton.
 - (2) Earth, rocks, and inert materials suitable for the cover of refuse No charge
 - (3) If the scale is not operating a flat fee schedule will be in effect and assessed as follows:
 - a. Passenger vehicles will be charged a minimum fee of twelve dollars (\$12.00).
 - b. All other vehicles will be charged a cubic yard (CY) fee based on the volume of material being disposed of and by using the current TCEQ established conversion from tons to cubic yards.

Loose waste will be converted as five (5) CY per ton or \$8.00/CY

Compacted waste will be converted as three (3) CY per ton or \$13.00/CY
 - (4) Passenger vehicle tires in excess of five (5) per load will be assessed a tire recycling fee of five dollars (\$5.00) per tire.
- (b) *Schedule of charges for materials sold at the landfill.* The city landfill site will sell mulch to residents or businesses. The mulch will be sold at a rate of three dollars (\$3.00) per two (2) cubic foot (CF) bag or twelve dollars (\$12.00) per cubic yard (CY) in bulk form.
- (c) *Loads to be secured.* A vehicle and/or trailer accepted into the city landfill site and not constructed with an enclosed transport body shall use another device, such as a net, canvass, covering, or tarp to prevent the blowing or spillage of loads. A vehicle not using such a device shall be assessed an anti-litter charge, in addition to the fees above, of twenty dollars (\$20.00) per load.
- (d) *Fee free weekends for residents.* The Director may authorize up to four (4) weekends each year where residents can utilize the City of Irving landfill in accordance with applicable law at no cost.

Sec. 33-35. Applicable taxes.

All rates and fees as provided in this article shall be subject to applicable sales tax.

SECTION 2. That this ordinance shall take effect on November 1, 2023.

SECTION 3. That nothing in this ordinance shall be constructed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION 4. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, clause, or phrase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS, on first reading on September 14, 2023.

RICHARD H. STOPFER
MAYOR

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS, on second and final reading on October 12, 2023.

RICHARD H. STOPFER
MAYOR

ATTEST:

Shanae Jennings
City Secretary/Chief Compliance Officer

APPROVED AS TO FORM:

Kuruvilla Oommen
City Attorney