

**TOWN OF ADDISON, TEXAS**

**ORDINANCE NO. 005-057**

**AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 66 (SOLID WASTE) OF THE CODE OF ORDINANCES OF THE CITY BY ADDING A NEW DIVISION 3 TO ARTICLE II. THEREOF AND REQUIRING A PERMIT TO USE THE PUBLIC STREETS, HIGHWAYS, OR THOROUGHFARES OF THE CITY FOR THE PURPOSE OF ENGAGING IN THE BUSINESS OF COLLECTING AND TRANSPORTING COMMERCIAL SOLID WASTE FROM COMMERCIAL AND INDUSTRIAL PREMISES WITHIN THE CITY; PROVIDING DEFINITIONS; PROVIDING FOR A PERMIT FEE AND PROVISIONS REGARDING THE LATE PAYMENT THEREOF; PROVIDING FOR THE REVOCATION OF A PERMIT; PROVIDING FOR THE REGULATION OF THE OPERATION OF A COMMERCIAL WASTE HAULER; PROVIDING FOR OTHER MATTERS IN CONNECTION WITH THE COLLECTION AND TRANSPORTATION OF COMMERCIAL SOLID WASTE; PROVIDING FOR A PENALTY FOR A VIOLATION HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Addison, Texas ("City") is a home rule municipality pursuant to Article 11, Section 5 of the Texas Constitution, State law, and its Home Rule Charter; and

**WHEREAS**, the City has exclusive control over and under the highways, streets, and alleys of the City, as set forth in Section 311.001, Tex. Transp. Code and in Section 2.08.s. of the City Charter, and is authorized and empowered to regulate the streets, alleys and public places of the City pursuant to Section 1.05 of the City Charter; and

**WHEREAS**, the City is authorized and empowered to license, fix the charges or fares made by, or otherwise regulate any person who owns, operates, or controls any type of vehicle used on the public streets or alleys of the City for carrying or transporting freight for compensation, as set forth in Section 215.073, Tex. Loc. Gov. Code and in Section 2.08.m. of the City Charter; and

**WHEREAS**, the City is authorized to adopt rules to protect the health of persons in the City pursuant to Section 122.006, Tex. Loc. Gov. Code and to enforce ordinances necessary to protect health of the inhabitants of the City pursuant to Section 54.004 of the Local Government Code; and

**WHEREAS**, the City is authorized by Section 215.075, Tex. Loc. Gov. Code to license any lawful business that is subject to the police power of the City; and

**WHEREAS**, the City is authorized pursuant to Sections 362.014, 363.003(12), 363.116 and 364.031, Tex. Health & Safety Code, to contract with any person for the collection or transportation of solid waste; and

**WHEREAS**, the City is authorized to require a permit for the use of public streets, highways, and thoroughfares in the City for the purpose of engaging in the business of collecting garbage, solid waste, trash, and recyclable materials from commercial and industrial premises within the City, and

**WHEREAS**, as environmental concerns increase, the City desires to monitor and regulate businesses engaged in the collection and transportation of garbage, solid wastes, trash, and recyclable materials as set forth herein, and to recover some of the costs incurred in connection therewith and with other matters related to such collection and transportation; and

**WHEREAS**, the City Council desires to establish minimum standards regarding the collection and transportation of garbage, solid waste, trash, and recyclable materials from commercial and industrial premises within the City, and to institute a permit requirement for the use of public streets, highways, and thoroughfares in the City for the purpose of engaging in the business of collecting garbage, solid waste, trash, and recyclable materials from commercial and industrial premises within the City; and

**WHEREAS**, the adoption of this Ordinance is in the best interests of the citizens of the City and serves to protect the health, safety, and welfare of its citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

**Section 1. Incorporation of Premises.** The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**Section 2. Amendment.** Chapter 66 (Solid Waste) of the Code of Ordinances of the Town of Addison, Texas is hereby amended in the following particulars, and all other chapters, articles, section, subsections, paragraphs and words are not amended but are ratified and confirmed.

A. A new Division 3 shall be and is hereby added to Article II. of the said Chapter 66 to read as follows:

**DIVISION 3. COMMERCIAL SOLID WASTE COLLECTION**

**Section 66-61. Purposes.**

The purposes of this Division are as follows:

- (1) To establish minimum standards for commercial solid waste, garbage, trash, and recyclable materials collection and transportation activities, in order to ensure orderly operations and to minimize adverse impacts on the public; and

(2) To provide for the recovery of costs incurred by the Town in connection with the monitoring and regulation of commercial solid waste, garbage, trash, and recyclable materials collection and transportation activities, and other costs related thereto.

**Section 66-62. Definitions.**

In this Division:

(1) *Commercial container* means any container used for the collection or transportation of commercial solid waste, including, without limitation, a dumpster, bin, roll-off, or canister.

(2) *Commercial solid waste* means all solid waste, including, without limitation, garbage, trash, rubbish, bulky waste, construction debris, and recyclable materials, that is produced by or collected from a commercial user.

(3) *Commercial hauler* or *hauler* means any person who collects, hauls, or transports commercial solid waste for a fee or other compensation by use of any means, including, without limitation, a dumpster, roll-off truck, a side-load or rear-load garbage truck, or a trailer.

(4) *Commercial user* means an owner or occupant of any property in the city that is not served by the Town's residential solid waste contractor.

(5) *Director* means the director of the Town's Financial and Strategic Services department or a designee of the director.

(6) *Permit* means a permit issued to a commercial hauler under this Division.

(7) *Permit holder* means a commercial hauler that holds a permit under this Division.

**Section 66-63. Scope.**

(1) The provisions of this Division apply to all commercial haulers that collect, haul, or transport commercial solid waste from any location within the Town.

(2) This Division does not apply to collection and transportation by a commercial user of only that user's commercial solid waste.

**Section 66-64. Permit for Commercial Collection Required.**

No person, firm, corporation, or other entity, excluding the Town, may use the public streets, alleys, or thoroughfares within the corporate limits of the Town for the purpose of engaging in the business of collecting or transporting commercial

solid waste without first having obtained a solid waste collection permit from the Town.

**Section 66-65. Application for Permit; Permit Processing; Expiration.**

(1) To obtain a solid waste collection permit, a person must submit an application on a form provided by the Director. The applicant must be the person who will own, control, or operate the proposed collection or transportation service.

(2) The permit application shall include the following information:

- (a) Applicant's name, address, and verified signature;
- (b) The form of business of the applicant, and, if the business is a corporation or association or other form of business entity, evidence of the authority of the person signing the application to represent the business;
- (c) The trade name under which the applicant does or proposes to do business;
- (d) The applicant's mailing address and office telephone number, and the applicant's facsimile number and e-mail address, if any;
- (e) The physical address of the applicant's business, and address of the location where the applicant's vehicles and equipment will be parked or stored when not in use;
- (f) The number of vehicles the applicant will operate, and the type and carrying capacity of each vehicle;
- (g) The type of commercial solid waste the applicant intends to collect and transport;
- (h) The location at which the applicant intends to dispose of the commercial solid waste collected by the applicant, and the name, address, and telephone number of the operator of each such location;
- (i) A certificate of insurance showing current commercial general liability and motor vehicle liability insurance coverage for the applicant; and
- (j) A statement that the applicant understands and agrees to abide by the provisions of this Division;

(3) Application for the permit shall be accompanied by a \$50.00 non-refundable processing fee.

(4) The director will review each permit application. If the director determines that the application is complete, the director shall issue a permit to the applicant. If the director determines that an application is incomplete, the director will inform the applicant in writing, and request that the applicant furnish additional information or materials to complete the application within 30 days. If the applicant does not furnish the additional information and materials within the 30 day period, the director will return the application materials to the applicant.

(5) The collection permit expires October 1 of each year, and may be renewed by making application as provided in this section.

**Section 66-66. Fees.**

(1) The annual fee for the commercial solid waste collection permit is an amount equal to five percent (5%) of the gross receipts on all revenues and income collected by or for the permit holder from any source derived from the operation of the collection of commercial solid waste within the corporate limits of the Town.

(2) The permit holder shall remit the annual fee on a quarterly calendar basis to the Town's Finance Department, on or before the 30<sup>th</sup> day of January, April, July, and October, based upon the revenues collected during the immediately previous calendar quarter.

(3) The quarterly payment shall be accompanied by an income statement certified by the permit holder acknowledging compliance with this section.

(4) Income statements and revenue information submitted by permit holders in connection with a quarterly payment under this Division are confidential to the extent permitted by and subject to the terms and provisions of the Texas Public Information Act, Chapter 552, Tex. Gov. Code, as amended or superseded.

(5) Fee payments received after the due date shall be subject to interest at the rate of ten percent (10%) per annum until the fees are paid in full. In addition, delinquent fees shall be subject to a late payment penalty of five percent (5%) for each month or portion thereof that the fees are outstanding. In no event, however, shall the penalties exceed twenty-five percent (25%) of the total delinquent fees nor shall interest charged or penalty assessed exceed the maximum rate allowed by law.

**Section 66-67. Requirement to Furnish Information.**

The books and records of the permit holder shall be open at reasonable times for inspection by the Director of Finance or the Director's designee in accordance with the terms of this Division.

## **Section 66-68. Regulation of Operations.**

(1) It is unlawful for a commercial hauler to place or maintain a commercial container on any city or state street, alley, road, or highway right-of-way within the city, unless authorized by the Town. A commercial hauler must ensure that all commercial containers serviced by it are properly placed and maintained on the customer's property.

(2) A permit holder must ensure that access to each commercial container serviced by it is provided across a driveway. It is unlawful for a permit holder to cross over the curb of a city or state street, alley, road, or highway except at an authorized driveway.

(3) A commercial hauler must ensure that each commercial container provided or serviced by it is equipped in a manner that prevents blowing or scattering of commercial solid waste materials, is in good repair and appearance and in a sanitary condition, is clearly marked with the hauler's name and telephone number, and is emptied not less than one time per week.

(4) A commercial hauler must ensure that the size of the commercial container provided to a commercial user and the frequency of servicing for the container are adequate for the volume of commercial solid waste being deposited by the user. If commercial solid waste is overflowing from or placed outside a commercial container, the hauler must notify the customer of the need to arrange for a larger container or more frequent servicing.

(5) A commercial hauler must ensure its employees take all reasonable measures to prevent spilling or leaving of commercial solid waste when making pickups. If a hauler's vehicle spills any commercial solid waste in the course of collection or transport, the hauler's employee must clean the spill by whatever means necessary before the vehicle leaves the premises. The hauler must clean up liquid and hydraulic spills with an absorbent that is carried on all vehicles. If a spill leaves a stain on a roadway, building, or other similar surface, the hauler must use all reasonable means available to remove the stain and restore the facility to the satisfaction of the Town.

(6) A commercial hauler must ensure that any damage caused to city property, facilities, or equipment in connection with the hauler's provision of commercial hauling services is reported immediately to the Town, and is promptly repaired or otherwise remedied to the satisfaction of the Town.

(7) A commercial hauler must ensure that all commercial solid waste collected or transported within the city by the hauler is disposed of at a facility that is authorized by the State of Texas to accept the type of commercial solid waste the hauler has collected or transported.

(8) A commercial hauler must ensure that commercial solid waste collection conducted by the commercial hauler within 300 feet of a residence is conducted only between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and between the hours of 7:00 a.m. and 8:00 p.m. on weekends.

**Section 66-69. Revocation of Permit; Appeal.**

The Director may revoke a permit for (i) the failure of the permit holder to provide required information, (ii) the failure of the permit holder to pay any fee required in connection with the permit, (iii) for the making of any false statement on the permit application or on any quarterly report required under this Division, (iv) for the violation of any provision of this Division, or (v) if it has been determined by an authorized governmental entity or agency or representative thereof that the permit holder has violated a governmental law, rule, or regulation regarding the collection, transportation, handling, or disposal of commercial solid waste, including, without limitation, any law, rule, or regulation regarding the location where the same may be deposited.

**Section 66-70. Penalty.** Any person, partnership, corporation, or any other business entity of any type whatsoever, who shall violate any of the provisions of this Division or fail to comply with any provision of this Division or with any requirement hereof, commits a misdemeanor and shall, upon conviction thereof, be subject to a fine as provided in Section 1-7 of this Code of Ordinances.

**Section 3. Savings.** This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

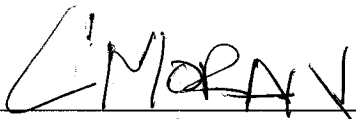
**Section 4. Severability.** The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance, and the City Council hereby declares that it would have passed such remaining portion of this Ordinance despite such invalidity, which remaining portion shall remain in full force and effect.

**Section 5. Effective Date.** This Ordinance shall become effective from and after its date of passage and publication as provided by law.

**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas this 25th day of October, 2005.

  
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Joe Chow, Mayor

ATTEST:

By:   
Carmen Moran, City Secretary

APPROVED AS TO FORM:

By:   
Ken Dippel, City Attorney  




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