

**CHAPTER 35****SOLID WASTES AND YARD WASTES****SUBCHAPTER 1****GENERAL PROVISIONS**

35.01 PURPOSE. The purpose of this Chapter is to provide for the sanitary storage, collection and disposal of solid wastes and yard wastes and, thereby, to protect the citizens of this City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid or yard wastes.

35.02 DEFINITIONS. For use in this Chapter the following terms are defined:

1. "Agency": means the Metropolitan Waste Authority.
2. "Approved Incinerator": means equipment or facilities for the enclosed burning of refuse having a stack adequate to maintain a draft sufficient for efficient combustion and equipped with a screen sufficiently fine to prevent ejection of particles of burning materials as approved by the Iowa Department of Natural Resources.
3. "Back Yard Burning": means the disposal of residential waste by open burning on the premises of the property where such waste is generated.
4. "Bags" means any untreated paper bags acceptable to the composting station used by the licensed yard waste collection hauler.
5. "Bundle" means a stack of brush and/or tree branches that are tied or bound together and do not exceed four (4) feet in length and twelve (12) inches in diameter.
6. "Clean up" means the removal of the hazardous wastes or substances to a place where the waste will not cause any danger to persons or the environment, in accordance with state rules therefor or the treatment of the material as defined herein to eliminate the hazardous condition, including the restoration of the area to a general good appearance without noticeable odor as far as practicable.
7. "Composting" means a controlled microbial degradation of organic waste to produce a relatively nuisance-free product of potential value as soil conditioner.
8. "Container" means a reusable receptacle constructed of plastic or metal materials.

9. "Department": means the Iowa Department of Natural Resources.
10. "Director": means the director of the state Department of Natural Resources or the Director's designee.

(Code of Iowa, 1995, Sec. 455B.101 [2])

11. "Discard": means to place, cause to be placed, throw, deposit or drop.

(Code of Iowa, 1995, Sec. 455B.361 [1])

12. "Garbage": means all solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and shall include all such substances from all public and private establishments and from all residences.

13. "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation, or physical, chemical, or infectious characteristics, has either of the following effects:

- A. Causes, or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible, illness.
- B. Poses a substantial danger to human health or the environment. "Hazardous waste" may include but is not limited to wastes that are toxic, corrosive or inflammable or irritants, strong sensitizers or explosives.

"Hazardous waste" does not include:

- A. Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners.
- B. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

(Code of Iowa, 1995, Sec. 455B.411)

14. "Hazardous substance" means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to a

substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. "Hazardous substance" may include any hazardous waste identified or listed by the Administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under section 311 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.

(Code of Iowa, 1995, Sec. 455B.381)

15. "Hazardous condition" means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the City or into the atmosphere which creates an immediate or potential danger to the public health or safety.

(Code of Iowa, 1995, Sec. 455B.381)

16. "Litter": means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, 1995, Sec. 455B.361 [2])

17. "Open Burning": means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack.

18. "Open Dumping": means the depositing of solid wastes on the surface of the ground or into a body or stream of water.

19. "Owner": means in addition to the record titleholder any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

20. "Refuse": means putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid wastes and sewage treatment wastes in dry or semi-solid form.

21. "Responsible person" means the party, whether the owner, agent, lessor or tenant, in charge of the hazardous substance or hazardous wastes being stored, processed, or handled, or the owner or bailee transporting hazardous wastes or

substances whether on public ways or grounds or on private property where the spill would cause danger to the public or to any person or to the environment.

22. "Rubbish": means non-putrescible solid waste consisting of combustible and non-combustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass bedding, crockery or litter of any kind.

23. "Rubble": means stone, brick or similar inorganic material.

24. "Salvage Operation": means any business, industry or trade engaged wholly or in part in salvaging or reclaiming any product or material, including, but not limited to, chemicals, drums, metals, motor vehicles or shipping containers.

25. "Sanitary Disposal": means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

26. "Sanitary Disposal Project": means any and all facilities and appurtenances including all real and personal property connected with such facilities owned, acquired, constructed, reconstructed, equipped, improved, maintained, and/or operated by the Agency to facilitate the final disposition of solid waste. The term "sanitary disposal project" shall include any sanitary landfill, transfer station or resource recovery system owned/or operated by the Agency.

(Code of Iowa, 1995, Sec. 455B.301 [18])

27. "Solid Waste": means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. The term "solid waste" may include motor vehicles if approved by the Agency. The term "solid waste" shall exclude yard waste, hazardous materials, as defined by the Agency, and may exclude other materials as defined by the Agency.

(Code of Iowa, 1995, Sec. 455B.301 [20])

28. "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance nonhazardous, safer for transport, amenable for recovery, amenable for storage, or to reduce it in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it nonhazardous.

29. "Yard Waste": means organic debris such as grass clippings, leaves, garden

waste, prunings, weeds, brush and tree branches produced as a part of yard and garden development and maintenance. Yard waste does not include tree stumps.

35.03 HEALTH HAZARD. It shall be unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste or yard waste, either in containers or not, that shall constitute a health or sanitation hazard.

35.04 FIRE HAZARD. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.

35.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials, except that the following shall be permitted:

1. Disaster Rubbish. The open burning of rubbish, including yard waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists. (Amended by Ordinance No. 90-6)
2. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the state Department of Environmental Quality.
3. Cooking. Open burning in outdoor fireplaces or barbecue grills used solely for personal or noncommercial purposes in connection with the preparation of food.
4. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the executive director of the state Department of Environmental Quality receives notice in writing at least one week before such action commences.

35.06 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, 1995, Sec. 455B.363)

35.07 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the open dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the director of the state Department of Natural Resources.

(Code of Iowa, 1995, Sec. 455B.307)

35.08 TOXIC AND HAZARDOUS WASTES. The collection, storage and disposal of toxic and hazardous wastes shall be subject to all relevant provisions of Code of Iowa Chapter 455B, Parts 5 through 7, and all administrative regulations of the Department for storage, collection, or transportation of toxic and hazardous wastes. Said statutory provisions and administrative regulations are incorporated herein by reference as if fully set forth herein.

35.09 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for solid waste and refuse provided by the City of Windsor Heights or the City's solid waste contractor:

1. Container Specification. Waste storage containers shall comply with the following specifications:

A. Commercial. Every person owning, managing, operating, leasing or renting any commercial premise where excessive amounts of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Location of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner shall have been granted written permission from the City to use public property for such purposes. The storage site shall be well-drained; fully accessible to collection equipment, public health personnel and fire inspection personnel.

3. Non-conforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

35.10 SANITARY DISPOSAL REQUIRED. It shall be the duty of each owner to provide for the sanitary disposal of all solid waste and refuse accumulating on his premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than fourteen (14) days shall be deemed a nuisance and the City may proceed to abate such nuisance in accordance with provisions of Chapter 30 of this Code, or by initiating proper action in district court.

(Code of Iowa, 1995, Ch. 657)

35.11 PROHIBITED PRACTICES. It shall be unlawful for any person to:

1. Unlawful Use of Containers. Deposit solid waste in any solid waste

containers other than the person's own container without the written consent of the owner of such containers or deposit any refuse in nonconforming containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Unlawful Disposal. Dispose of solid waste at any facility or location which is not an approved sanitary disposal project.

4. Unlawful Collection. Engage in the business of collecting, transporting, processing or disposing of solid waste or yard waste within the City without a contract therefor with the City or a valid permit therefor.

5. Incinerators. Burn rubbish or garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter.

**SUBCHAPTER 2****COLLECTION AND TRANSPORTATION**

**35.12 COLLECTION SERVICE.** The collection of solid waste within the City shall be only by collectors licensed by the City.

**35.13 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding, and shall be maintained in good repair.

**35.14 LOADING.** Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

**35.15 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

**35.16 LOCATION OF CONTAINERS.** Containers for the storage of solid waste awaiting collection shall be placed out-of-doors at some easily accessible place by the owner or occupant of the premises served. Containers for solid wastes placed at the curb line shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection. No solid waste or solid waste containers shall be deposited by any person upon any sidewalk, crosswalk, roadway, or upon any alley right-of-way so as to obstruct or block pedestrian movement or vehicular traffic.

**35.17 BULKY RUBBISH.** Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste shall be collected by the collector upon request in accordance with procedures therefor established by the Council.

**35.18 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this Chapter; however solid waste collectors shall not enter dwelling units or other residential buildings.

**35.19 LICENSE REQUIRED.** No person shall collect, transport, process or dispose of any solid waste generated within the jurisdiction of the City for compensation unless such person holds a valid license issued in accordance with the provisions of this Chapter.

35.20 APPLICATION FOR LICENSE - CONTENTS. An application for a license under this Chapter shall be addressed to the Council, filed with the Clerk and shall contain the following:

1. Name and Address. The full name, business address and business telephone number of the applicant.
2. Nature of Business. A description of the nature and extend of the business of the applicant.
3. Customers Serviced. A description of the types or classes of customers which the applicant proposes to serve.
4. Waste Transported. A description of the types of solid waste which the applicant proposes to transport.
5. Equipment. A description of the vehicles and equipment which the applicant proposes to use.
6. Disposal Project. The location of the sanitary disposal project which the applicant proposes to use.
7. Compliance Assurance. A statement that the applicant shall faithfully observe all of the applicable provisions of this Chapter.

35.21 APPLICATION FOR LICENSE - ACCOMPANYING MATERIAL. In addition to the foregoing, such application shall be accompanied by the following:

1. Financial Statements. Financial statements for the applicant covering its last two (2) fiscal or calendar years which shall include balance sheets and operating statements.
2. Rate Schedules. Copies of current rates and fees charged by applicant for transportation of solid waste.
3. Rules and Regulations. Copies of current rules and regulations of applicant applicable to the transportation of solid waste.
4. Affirmation. The application shall be sworn to under oath.
5. Insurance. Applicants shall provide proof of liability insurance in the amounts of \$250,000 per person and \$1,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damages.

35.22 LICENSE - ACTION BY COUNCIL. The Council shall act on all applications for licenses within forty-five (45) days following receipt of the application by the Clerk. If the Council finds that all of the prescribed conditions for the issuance of a license have been satisfied, and that no grounds for revocation exist, the Council may, by resolution, authorize the issuance of the license.

35.23 LICENSE FEE. Before any solid waste collectors license is issued, the applicant shall pay to the Clerk an annual license fee. Payment of such license fee shall be by cash or by certified or cashier's check payable to the City. All license fees under this Chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees, may from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license fees shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

35.24 ISSUANCE OF LICENSE. When authorized by the Council, and after payment of the license fee, the Clerk shall issue the license to the applicant.

35.25 FORM OF LICENSE. The license shall be signed by the Mayor and the Clerk and shall show the name of the licensee, the address of the licensee, the purpose of the license, the date of the issuance of the license and the date of expiration of the license.

35.26 LICENSE - EXPIRATION DATE. Each license issued under the provisions of this Chapter shall expire at 11:59 p.m. on December 31 in the calendar year of issuance.

35.27 LICENSE - REBATES PROHIBITED. No licensee shall be entitled to a rebate of any kind by reason of the surrender of a license prior to the expiration date.

35.28 LICENSE - TRANSFER PROHIBITED. Each license issued hereunder shall be personal to the licensee and shall be void upon transfer or assignment to another person.

35.29 REVOCATION - GROUNDS. The following reasons shall be grounds for the revocation of any license issued under the provisions of this Chapter.

1. Fraud. That the licensee has made fraudulent or untrue statements in his application for a license.
2. Violations. That the licensee has violated any of the provisions of this Chapter.
3. Improper Operation. That the licensee has conducted the licensee's business in such a manner as to endanger the public welfare, health, safety, order or morals.

35.30 REVOCATION - PROCEDURE. When it shall appear to the Council that grounds for the revocation of a license may exist, the following procedure shall be followed:

1. Investigation. The Council shall direct the Chief of Police to make an investigation concerning the alleged grounds for revocation.
2. Report. The Chief of Police shall make such investigation and report findings in writing to the Council.
3. Council Determination. The Council shall make a determination as to whether probable cause for revocation exists.
4. Hearing. If the Council finds that probable cause for revocation exists, it shall set a date, time and place for a hearing on the matter and shall direct the City Attorney to prepare the complaint against the licensee. The complaint shall state the alleged grounds for the revocation and the date, time and place for a hearing on the matter.
5. Service of Complaint. The complaint shall be served upon the licensee in the manner provided for by the Iowa Rules of Civil Procedure not less than ten (10) days prior to the date set for a hearing on the matter.
6. Conduct of Hearing. The Council shall conduct the hearing at which the licensee shall be present. The purpose of the hearing shall be to determine the truth of the facts alleged in the complaint. Should the licensee, or the licensee's authorized representative, fail to appear without good cause, the Council may proceed to a determination on the complaint.
7. Rights of Licensee. The licensee shall have the right to be represented by counsel, to testify and present witnesses in the licensee's own behalf and to cross-examine adverse witnesses.
8. Evidence. The Council shall admit only reliable and substantial evidence into the revocation proceeding and shall give all admitted evidence its natural probative value.
9. Findings - Conclusion - Revocation. The Council shall make and record findings of fact and conclusions of law and shall revoke a license under this section only when, upon review of the entire record, it finds substantial evidence of a violation of this Chapter.

35.31 REVOCATION - EFFECT. Revocation of a license shall bar the licensee from being eligible for any license under this Chapter for a period of one (1) year from the date of revocation.

35.32 CONTAINER SIZE AND CHARGES. Container sizes and corresponding charges for solid waste collection are set forth in subchapter 5 of this chapter.

35.33 COLLECTION OF UNPAID CHARGES: The collection of solid waste as provided by this Subchapter from residential premises and maintenance of the availability of such service, whether or not such service is used regularly or at all by the owner of such residential premises, is hereby declared a benefit to the said premises at least equal to the monthly charges specified in Section 35.32 of this Code, and in case of failure to pay the monthly charge as herein provided, then the monthly charge shall be a lien against the property benefited in the manner provided by subsection 384.84 of the Code of Iowa.

35.34 BILLING PROCEDURE, DELINQUENT ACCOUNTS, AND COLLECTION PROCEDURES.

1. The collector licensed by the City for collection and disposal of solid waste shall be responsible for all billings and collection of fees for its services rendered for collection and disposal. Said collector shall bill City residents on a quarterly basis. The collector shall provide at least 90 days for payment of a delinquent account prior to termination of service and shall not discontinue collection service at any residential unit prior to a written notice sent to the unit. This notice shall state substantially as follows:

Dear Customer:

It has become necessary for us to discontinue your service because of non-payment. Please contact our office immediately so we can make arrangements to reinstate your service. Thank you.

The collector shall employ reasonable procedures to collect delinquent accounts and shall not harass or exert undue pressure on residents with delinquent accounts.

2. Each delinquent account which is transmitted to the City by the licensed collector shall thereafter be processed for imposition of a lien upon the property benefited as provided by section 384.84 of the Iowa Code, in the amount of the delinquent account, plus a Polk County administrative fee for each lien certified as provided in section 384.84 of the Iowa Code, plus a City delinquency fee in the amount of \$5.00 to recoup the city's administrative processing costs and lost investment on the unpaid amount. The lien herein provided shall apply only to that property or those properties benefited for which the account is delinquent.

3. The City shall prepare an assessment schedule listing all delinquent solid waste collection accounts transmitted to the City. Such schedule shall show each delinquent account by name of the tenant and/or record title holder of the benefited property, shall identify each property for which the solid waste collection account is delinquent, and shall show the delinquent amount and delinquency fee to be assessed against each such benefited property. The assessment schedule shall be presented to the City Council and upon Council approval thereof the City Clerk shall certify and file same with the Polk County Treasurer for filing of liens against the properties shown thereon in the amounts shown thereon; provided, however, that if the record title holder of a rental property subject to billing for solid waste collection requests notice as provided in section 384.84 of the Iowa Code, the City Clerk shall give notice of delinquency to said record title holder not less than ten (10) days prior to certifying delinquent charges for said property to the county treasurer.

4. Such lien shall be enforced until payment in full of the delinquent amount and delinquency fees shown on the assessment schedule is satisfied by payment of said amounts at the office of the county treasurer.

35.35 TREATMENT PENDING COLLECTION. All solid waste consisting of waste animal and vegetable matter, which may attract flies, dogs or rodents, shall be drained of all excess liquid, wrapped in paper or disposable containers, and placed or stored, until collection, in covered suitable containers.

35.36 ACCUMULATIONS HAZARDOUS TO HEALTH. No person shall permit to accumulate on any premises, improved or vacant, or on any public place, quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.

35.37 ACCUMULATIONS HAZARDOUS TO PROPERTY. No person shall permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a health or fire hazard.

### 35.38 RECYCLING METHODS AND PROCEDURES

#### **SECTION 1** **DEFINITIONS**

Eligible Residence shall mean a residence of not more than four dwelling units.

Facility or Facilities shall mean the facility or facilities designated by the City to which the Hauler shall deliver all recyclable material collected by the Hauler.

Non-Recyclable Material shall mean any material not defined as Recyclable Material.

Recyclable Material shall mean material accepted by the Agency as recyclable. The Agency will provide the parameters on which material will be accepted through its recycling operations. This information will be provided to the public on a regular basis and will also be available at City Hall.

Set-Out shall mean the action event or instance comprised of the proper placement of the home storage container(s) of Recyclable Material for collection at the Eligible Residence.

#### **SECTION II** **ESTABLISHMENT OF RECYCLABLE COLLECTION PROGRAM**

1. The City of Windsor Heights has previously entered into an Agreement with the Metro Waste Authority. This Agreement authorized and directs the Metro Waste Authority to contract on behalf of the City of Windsor Heights for the collection of recyclable materials under the Metro Waste Authority's "Curb-It" program. **The costs for the purchase of recyclable bins; the costs of educational programs instructing citizens as to the program; and the costs for processing the recyclables collected will be paid for by Metro Waste Authority.**
2. The hauler designated by Metro Waste Authority as the Recyclable Collection Hauler will provide once per week collection of recyclable materials to all eligible residents. Under the terms and conditions of the contract executed between Metro Waste Authority and the designated Hauler.

#### **SECTION III** **NON EXCLUSIVE AGREEMENT**

Nothing in the Agreement between the Metro Waste Authority and the City of Windsor Heights and/or Metro Waste Authority and the designate Hauler for recyclable material within the City

shall be construed or interpreted to constitute the grant of a franchise or exclusive right to the designated Hauler to collect all recyclable material within the City.

#### **SECTION IV COLLECTION OF RECYCLABLE FEES**

Charges for the collection of recyclable materials shall be included in each eligible residence's water bill. Such charges are set forth in subchapter 5 of this chapter and are payable under the provisions of Chapter 31 of the Code of Ordinances.

#### **SECTION V DISCONTINUANCE OF SERVICE**

Any resident who fails to remit the total amount of the charges set out in the water bill, including the fees for collection of recyclable materials shall be sent a notice on the first day following the delinquent date. Such notice shall contain a statement explaining to the customer the availability of informal consultation with designated personnel empowered to correct mistakes and billing. If payment is tendered to the City within ten (10) days of Notice being sent, all services to the residence shall continue uninterrupted. In the event payment is not received, the City shall have the right to discontinue services to the residence including the collection of recyclables and deliverance of water pursuant to the provisions set out in Chapter 31.

#### **SECTION VI RESPONSIBILITY FOR PAYMENT OF BILL**

The owner of a property receiving collection of services shall be responsible for the payment of all charges for such services.

**SUBCHAPTER 3****YARD WASTES**

**35.39 DISPOSAL OF YARD WASTE.** The collection, storage, and disposal of yard waste shall be subject to the following:

1. Separation of Yard Waste Required. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises. The owner or occupant may either compost the yard waste on the premises or contain it in bags, containers or bundles for collection and disposal. All bags or containers must be clearly marked "Yard Waste."
2. Yard Waste Containers. Persons choosing not to manage yard waste on their own property shall place yard waste in bags, containers or bundles for collection and disposal. Bags shall be any untreated paper bags acceptable to the composting station used by the licensed yard waste collection hauler. Tree limbs less than four (4) inches in diameter and brush shall be securely tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter when not placed in containers. The weight of any individual bag, container or bundle shall not exceed seventy-five (75) pounds.
3. Composting. Back yard composting of yard waste is encouraged. Information about this process is available to all residents and may be obtained from the office of the City Administrator located at the City Hall. Owners and occupants are encouraged to accumulate upon property under their respective control such quantities of yard waste as can be properly composted without creating offensive odors, litter, fire or vector problems. Such composting so carried out shall be deemed to be an acceptable, alternative disposition of yard waste and shall satisfy any requirement to separate yard waste contained in this Code.
4. Frequency of Collection. All yard waste not composted shall be collected from residential, commercial, industrial and institutional premises at least once per week. Yard waste shall be collected on a City-wide basis between March 1 and November 30. City residents may arrange for individual yard waste pickup with the City, or its agent, between December 1 and February 28.
5. Location of Containers. Containers for the storage of yard waste awaiting collection shall be placed at the curb by the owner or occupant of the premise served. Yard waste must be placed a minimum of three feet from other solid waste.
6. Number of Bags or Containers. The number of bags, containers or bundles containing yard waste which persons may place out for collection shall be unlimited.

7. Time Limit. Bags, containers or bundles of yard waste shall not be placed for collection more than forty-eight (48) hours in advance of the regularly scheduled collection day.

35.40 LICENSING OF YARD WASTE COLLECTION HAULER. No person shall collect, transport, process or dispose of yard waste generated within the jurisdiction of the City for compensation unless such person holds a valid license issued in accordance with the provisions of this Chapter. In addition to meeting the requirements under this Chapter for solid waste collectors, each licensed collector of yard waste shall provide the City a detailed description of the manner in which the collector intends to collect and haul away yard waste. Each such licensed collector shall haul yard waste to a compost site approved pursuant to state or local law or regulation and shall keep an accurate accounting of the amount of such yard waste. Each licensed collector shall submit an annual written report to the City detailing the amount of such yard waste that has been collected and delivered for composting during each month of the reporting year. Any collector licensed under the provisions of this Chapter shall not mix yard waste and solid waste together. The license of any hauler who delivers for disposal yard waste and solid waste mixed together shall be subject to revocation.

35.41 CONTAINERS AND CHARGES. Containers and charges for yard waste collection and disposal shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such containers and corresponding charges may from time-to-time be amended by the Council by resolution. A copy of the resolution setting forth the currently effective containers and corresponding charges shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours. Residents shall purchase their own bags, which are in addition to these charges. No additional charge will be imposed upon a resident for the collection of holiday trees and wreaths.

35.42 OWNER MAY TRANSPORT. Nothing in this Chapter is intended to prevent an owner from transporting yard waste accumulating on the premises of the owner, provided such yard waste is disposed of at composting stations approved pursuant to state or local law or regulation and in accordance with policies established by the composting station.

35.43 VIOLATIONS. No person shall place or cause to be placed any yard waste into the solid waste collection system of the City. Any person violating any of the provisions of this Chapter concerning yard waste shall be guilty of a misdemeanor.

(Code of Iowa, 1995, Sec. 455D.9)

**SUBCHAPTER 4****SOLID WASTE DISPOSAL**

**35.44 DEFINITIONS.** The following words and phrases, when used in this Chapter, shall, for the purpose of this Chapter, have the meaning ascribed to them in this section:

1. "Actual Value": means actual value as that term is or may be defined by Code of Iowa . 441.21 (1995). It shall refer to actual value as most recently determined according to law.
2. "Agreement": means the Amended and Substituted Intergovernmental Agreement Creating the Des Moines Metropolitan Area Solid Waste Agency dated December 18, 1969.
3. "Contract": means the Solid Waste Disposal Service Contract between the Agency and the City dated May 1, 1972.
4. "Contract Payment": means the amounts paid or required to be paid from time to time by the City to the Agency pursuant to the contract.
5. "Disposal Project": means a sanitary disposal project as that term is or may be defined by Code of Iowa Chapter 455B (1995) owned, operated or used by the Agency pursuant to the contract.
6. "Real Estate": means real estate as that term is or may be defined by Code of Iowa . 4.1(13) (1995).

**35.45 DISPOSAL OF SOLID WASTE.** All solid waste generated within the jurisdiction of the City shall be disposed of at the sanitary disposal project.

**35.46 EXCEPTIONS.** The provisions of Section 35.39 of this Chapter shall not apply (a) to the disposal of organic material which is not potentially injurious to public health or welfare and which has been gathered and suitably contained for purposes of composting or fertilizing agricultural or flora plots when permission to dispose of such material is deposited or (b) to the filling or grading of property with earth, sand, mud or other similar materials which are not potentially injurious to public health or welfare when permission for such filling or grading has been obtained from the owner of the property on which such filling or grading is done and when such filling or grading is done in accordance with the provisions of other applicable statutes and ordinances.

**35.47 METHOD OF DISPOSAL OF SOLID WASTE.** The disposal project owned, operated and used by the Agency is hereby declared to be available to persons who are owners of real estate within the corporate limits of the City as a method for the disposition of solid waste generated within

the corporate limits of the City pursuant to the agreement and the contract in accordance with the provisions of Code of Iowa, Chapter 455B (1995).

35.48 DECLARATION OF BENEFIT. The benefits derived by each individual parcel of real estate subject to taxation within the corporate limits of the City from the agreement and the contract are hereby declared to be at least equal to the ratio which the actual value of each individual parcel of real estate subject to taxation within the corporate limits of the City bears to the aggregate actual value of all parcels of real estate subject to taxation within the corporate limits of the City.

35.49 NOTICE OF CONTRACT PAYMENT. In the event that the budget of the Agency for any calendar or fiscal year shall provide for a contract payment from the City to the Agency pursuant to the contract during the calendar or fiscal year, the Agency shall, at least thirty (30) days prior to the date fixed by law for the final certification of the budget of the City, notify the City in writing that a contract payment shall be due from the City pursuant to the contract and the amount thereof.

35.50 OPTIONAL METHODS OF PROVIDING FOR PAYMENT OF CONTRACT PAYMENT. Upon receipt by the City of the notice referred to in Section 35.49 hereof, the City shall determine, by resolution, whether it will (a) pay said contract payment from funds legally available to pay the same (hereinafter "Option A" or (b) assess said contract payment against the real estate subject to taxation within the corporate limits of the City benefited thereby as aforesaid in the manner provided by and for special assessments as hereinafter provided (hereinafter "Option B"). In the event that the City elects Option "A", provision shall be made therefor in the budget of the City.

35.51 ASSESSMENT SCHEDULE FOR CONTRACT PAYMENT. In the event that the City elects Option "B", the Clerk shall prepare an assessment schedule on the following basis:

1. Assessment Rate. The amount of the contract payment shall be divided by aggregate actual value of all parcels of real estate subject to taxation within the corporate limits of the City to determine the contract payment assessment rate (hereinafter "assessment rate").
2. Assessment. The assessment rate shall be multiplied by the actual value of each individual parcel of real estate subject to taxation within the corporate limits of the City to determine the contract payment assessment (hereinafter "assessment") for each such parcel. Assessments shall be expressed in dollars and cents and cents shall be carried to three digits. If the last digit of the cents of any assessment is less than five, the assessment shall be lowered to the next even cent. If the last digit of the cents of any assessment is five or more, the assessment shall be raised to the next even cent. No assessment shall be less than one cent.
3. Assessment Schedule. The assessments shall be shown on an assessment schedule which shall state a description of the parcel of real estate involved, the name and address of the owner thereof and the amount of the assessment.

4. Certification. The assessment schedule shall be certified to the Council for approval.

35.52 APPROVAL OF ASSESSMENT SCHEDULE. Upon receipt of the assessment schedule, the Council shall approve the same by resolution.

35.53 CERTIFICATION OF ASSESSMENT SCHEDULE. Upon approval of the assessment schedule by the Council, the Clerk shall certify the assessments to the county auditor for collection with, and in the same manner as, general property taxes. Said certification shall be made on or before the last date fixed by law for certification of special assessments for collection in the year in which the contract payment is due.

35.54 PROCEEDS OF SPECIAL ASSESSMENT. The Clerk shall receive, deposit and account for all funds received by the City from said special assessment. Said funds shall be handled as trust and agency funds and shall be expended only upon order of the Council to satisfy contract payments due from the City to the Agency pursuant to the contract. Balances, if any, remaining at the end of any calendar or fiscal year of the City shall be carried over from year to year.

**SUBCHAPTER 5**

**AUTHORIZATION FOR CHARGES**

35.55 AUTHORITY TO ESTABLISH RATES. The City will fix, establish, maintain, and revise the same from time to time whenever necessary such rates, fees, rentals or other charges for the use and services of the disposal facilities operated by the Agency, as more fully described in the Solid Waste Disposal Service Contract, as will always provide in each year, revenues sufficient to pay the proportionate share of such City for (1) operation and maintenance expenses for said disposal facilities, (2) the principal of and interest on the Solid Waste Disposal Revenue Bonds, and (3) all reserves, renewal and replacement funds and other funds provided for in the Resolution authorizing the issuance of such Solid Waste Disposal Revenue Bonds.

35.56 INITIAL SCHEDULE OF RATES. An initial schedule of such rates, fees, tolls and other charges to be levied and collected from the residents of the City for the use and services of said disposal facilities shall be established and put into effect whenever necessary in order for said City to comply with the provisions of its Solid Waste Disposal Service Contract; provided, however, the City may in its discretion apply such other lawfully available moneys it has on hand for such purpose.

Paragraph 1. The applicable monthly rates are identified in the following table:

Authorized Contractor Charges:	
Flat Rate	\$9.55
Houseside service	\$6.01
Extra Bagged Collection Sticker	\$1.00
Large Item Sticker	\$5.00
Appliances with or without Freon	\$35.00
Recycling:	
Monthly Recycling	\$2.97
Storm Debris/Brush Waste Collection:	
Monthly	\$0.32

**SUBCHAPTER 6**

**HAZARDOUS WASTE AND SUBSTANCE SPILLS**

35.57 HAZARDOUS WASTES - CLEAN UP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous waste or substance, so that the hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters the responsible person shall cause the condition to be remedied by a clean up, as defined in Section 35.02 of this Chapter, as rapidly as feasible to an acceptable, safe condition. The costs of clean up shall be borne by the responsible person. If the responsible person does not cause the clean up to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may by an authorized officer give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the clean up or that the City will proceed to procure clean up service and bill the responsible person. If the bill for those services is not paid within thirty (30) days the City Attorney shall proceed to obtain payment by all legal means. If the cost of the clean up is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any state or federal funds available for said clean up.

35.58 NOTIFICATION. The first city officer or employee who arrives at the scene of an incident involving hazardous substances shall notify the Fire Department which shall notify the proper state office in the manner established by state law or regulation.