

ORDINANCE NO. 9596-42

AN ORDINANCE AMENDING CHAPTER TEN OF THE CODE OF ORDINANCES, CITY OF URBANA, ILLINOIS REGULATING THE LICENSING OF HAULERS

WHEREAS, Ordinance No. 9495-97, which was adopted by the Urbana City Council on the 1st day of May, 1995 and approved by the Mayor on the 9th day of May, 1995, amended Chapter 10, "Garbage and Refuse", of the Code of Ordinances, which regulates the licensing of haulers and enacted certain regulations pertaining to waste hauling and recycling; and

WHEREAS, in the context of a lawsuit which challenged certain provisions of said Ordinance, certain refinements have been proposed which would mitigate technical issues presented in the lawsuit.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That Section 10-4, "Removal of refuse", of Chapter 10, "Garbage and Refuse", of the Code of Ordinances, City of Urbana, Illinois, is hereby repealed in its entirety.

Section 2. That Section 10-5 of Chapter 10, "Garbage and Refuse", of the Code of Ordinances, City of Urbana, Illinois, is hereby repealed in its entirety and that existing Section 10-12, "Depositing waste on property of another", is hereby renumbered as Section 10-5, of Chapter 10, of the Code of Ordinances, City of Urbana, Illinois, and is hereby amended to read as follows:

Sec. 10-5. Depositing waste on property of another.

(A) No person shall deposit or cause to be deposited Municipal Waste, Recyclable Materials, Landscape Waste, or Special Waste on the property of another, including deposit into containers or dumpsters of another.

(B) Violations of this Section is hereby declared to be a public nuisance.

Section 3. That Sections 10-1, 10-2, 10-4, 10-6, 10-7, 10-8, and 10-10 of Article I, "In General", of Chapter 10, "Garbage and Refuse", of the Code of Ordinances, City of Urbana, Illinois, are hereby amended to read as follows:

Sec. 10-1. Definitions.

As used in Chapter 10 of this Code, the following terms shall have the meaning ascribed to each such term as set forth below:

(A) Approving Authority means the Director of Public Works or designee.

(B) City means the City of Urbana, Illinois.

(C) Commercial/Industrial Hauler means any person who collects and transports Municipal Waste, Landscape Waste or Recyclable Materials solely from multi-family dwellings of seven (7) or more dwelling units, commercial business enterprises, or industrial enterprises.

(D) Construction or Demolition Debris means solid waste containing a variety of materials resulting from the construction, demolition, remodeling or renovation of residential, commercial or industrial structures. Construction or Demolition Debris includes cement, concrete, asphalt, or masonry debris resulting primarily from street, sidewalk, bridge, sewer and water construction, repair or replacement, which is defined as clean fill by the Illinois Environmental Protection Agency.

(E) County means Champaign County, Illinois.

(F) Curbside means that portion of the right-of-way adjacent to and within five (5) feet of paved or traveled roadways, including alleys.

(G) Dwelling means any building, but not a travel trailer, which is exclusively designed for or used for one (1) or more dwelling units.

(H) Dwelling units means one (1) room or suite of two (2) or more rooms in a building, designed for and used by one (1) family for living and sleeping purposes, containing its own kitchen and bathroom facilities, and having its own independent entry/access from the exterior of the structure or from a common interior hallway.

(I) Front yard means a yard extending across the full width of a lot, and measured between a lot line abutting a street and the nearest line of a structure located on a lot, but excluding the four-foot area immediately adjacent to the said nearest line of a structure located there.

(J) Generator means any Person whose act or process produces or accumulates Municipal Waste, Landscape Waste, or Recyclable Materials.

(K) Hauler means any Person who collects and transports Municipal Waste, Landscape Waste, or Recyclable Materials.

(L) Hazardous Waste means a waste, or combination of waste, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, (P.L. 94-580), as amended, or pursuant to Illinois Pollution Control Board regulations.

(M) Landscape Waste means all accumulations of grass, shrubbery cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines, and trees (415 ILCS 5/3.20). "LIVE" Christmas trees and greenery from wreaths or garlands, which are free of ornamentation and metal wire, shall also be considered Landscape Waste.

(N) Landscape Company means a company that provides, for property other than its own, maintenance or removal of lawns, shrubbery, trees, or any ornamental plant, and transports only Landscape Waste produced directly as a result of landscape care activities of its own employees, and no other landscape or municipal waste.

(O) Multi-family Dwellings means a building or structure of seven (7) or more dwelling units, dormitories, college residence halls, fraternal chapters and cooperatives.

(P) Municipal Waste means any garbage, refuse, rubbish, debris, general household waste, or Construction or Demolition Debris, but does not include Special Waste or Landscape Waste.

(Q) Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

(R) Recyclable Materials means clear, brown, and green food and beverage (f&b) glass containers, f&b steel (tin), bi-metal, and aluminum can containers, newspaper (ONP), blow molded polyethylene terephthalate (PET, plastic code #1) and high density polyethylene (HDPE, plastic code #2) plastic containers, corrugated cardboard (OCC), chipboard, magazines (OMG), or other materials as may be designated by the City.

(S) Residential Dwelling means any single or multi-family dwelling of six (6) or fewer units within the corporate limits of the City.

(T) Residential Hauler means any person who collects and transports Municipal Waste, Landscape Waste or Recyclable Materials from a Residential dwelling.

(U) Right-of-way or ROW means the entire dedicated tract or strip of land that is legally used by the public for circulation or service.

(V) Special Waste means any industrial process waste, pollution control waste, hazardous waste or potentially infectious medical waste.

Sec. 10-2. Municipal waste service required

(A) It shall be the duty of every owner, agent, tenant, or occupant of any dwelling unit or any business structure or premise located within the corporate limits of the City to have accumulations of Municipal Waste collected and disposed of at least once every seven (7) days by a Hauler possessing a valid Hauler license.

(B) The occupancy of any dwelling or the operation of any business activity within the City shall be prima facie evidence that Municipal Waste is being produced and accumulated on such premises. The Director of Public Works or designee may, after review, grant exemption to this section if the level of Municipal Waste generated or the alternative arrangements for disposal of Municipal Waste does not reasonably warrant once a week collection. The person requesting the exemption shall have the burden of establishing the grounds for the exemption to the satisfaction of the Director of Public Works or designee.

(C) No person shall throw, discharge or deposit any Municipal Waste, except in a container made of impervious materials having a solid bottom, handles, and a tight fitting cover or lid. "Fifty-five (55) gallon drum" containers shall not be considered an acceptable container.

(D) Violations of this Section is hereby declared to be a public nuisance.

Sec. 10-4. Curbside collection, schedule.

(A) Curbside collection will be allowed to occur within the City for:

(1) Municipal Waste generated only from Residential Dwellings provided such waste is in containers pursuant to Section 10-2(C); and

(2) Recyclable Materials generated only from Residential Dwellings provided such materials is in containers pursuant to Section 10-77; and

(3) Recyclable Materials generated only from Multi-family Dwellings provided:

(a) such materials is in containers pursuant to Section 10-77; and

(b) the containers used in such program shall be those customarily used for residential dwellings unless approval for other containers is granted by the Director of Public Works in circumstances where the nature of the recyclables or the volume would make the use of another container more efficient or would provide a neater or more uniform appearance.

(B) The schedule allowing curbside collection to occur shall be in the following areas within the City only on the designated days as provided herein:

(1) Monday: the geographical area which is located South of Illinois Street and the extension thereof, and West of Anderson Street and the extension thereof; and

(2) Tuesday: the geographical area which is located South of Illinois Street and the extension thereof, and East of Anderson Street and the extension thereof; and

(3) Wednesday: the geographical area which is located North of Illinois Street and the extension thereof.

If a City observed holiday should occur on one of the designated days, Haulers will be allowed to provide curbside collection on the day following the holiday for that geographical area. The occurrence of such holiday may impact subsequent designated curbside collection days, therefore, if such holiday should occur on Monday, that geographical area will be allowed to be collected on Tuesday; if Tuesday, that geographical area will allowed to be collected on Wednesday; if Wednesday, that geographical area will be allowed to be collected on Thursday; for the remainder of such week.

(C) No person shall collect Municipal Waste or Recyclable Materials curbside in violation of this Chapter.

(D) No person shall permit a container(s) used for the collection of Municipal Waste or Recyclable Materials to be placed or remain upon city-owned or controlled right-of-way or a front yard, except for the forty (40) hour period commencing at 6:00 p.m. on the day preceding and ending at 10:00 a.m. on the day following the day of the week designated in this Chapter allowing curbside collection for a given location. This Section shall not apply to Landscape Waste which is placed in compliance with Section 10-7 of this Code. Violations of this subsection are hereby declared to be a public nuisance.

Sec. 10-6. Scattering dirt, gravel, etc., on public streets.

(A) It shall be unlawful for any person to strew or scatter any substantial quantity of dirt, mud, sand, gravel, crushed stone or other such material on the public streets of the City and allow same to remain.

(B) Violations of this Section are hereby declared to be a public nuisance and violators shall also be liable for the cost of removal of such material.

Sec. 10-7. Placing grass, leaves or debris in the streets and gutters.

(A) It shall be unlawful for any person to place grass, leaves or other debris in the streets or gutters of the City.

(B) Landscape Waste can be temporarily stored for a maximum of seven (7) days on private property or City right-of-way, adjacent to where such Landscape Waste is generated from, that are in bundles, containers or bags that each bear a Landscape Waste collection sticker which complies with Section 10-8.

(C) No Landscape Waste shall be stacked, piled or otherwise placed on the public right-ofway so that the height of such stack exceeds three (3) feet, nor shall any Landscape Waste be placed within the visibility triangle as defined in Section 20-83 of the Urbana City Code.

(D) Violations of this Section are hereby declared to be a public nuisance.

Sec. 10-8. Identification, collection of landscape waste.

(A) Landscape Waste collection sticker is a tag or a sticker complying with the following:

- (1) Such sticker is a minimum of twelve (12) square inches;
- (2) Is distinctive in color;
- (3) Has the name, address and phone number in permanent ink of the person and/or company who has contracted to collect such.

(B) Landscape Waste shall be collected as identified herein, within seven (7) days from the date such materials are set-out for collection.

(C) Violations of this Section are hereby declared to be a public nuisance.

Sec. 10-10. General penalty.

(A) Any person who violates any provision of this Chapter shall be subject to a fine of not less than \$100 nor more than \$200 for a first offense and a fine of not less than \$200 nor more than \$500 for any subsequent offense.

(B) Every act or omission constituting a violation of any of the provisions of this Chapter by any officer, director, manager, agent, or employee of any Hauler shall be imputed to such Hauler. The Hauler may be punishable as if the act or omission had been done by the Hauler personally.

(C) The suspension or revocation of a Business license by the City shall not be considered a recovery or penalty so as to bar any court imposed fine from being enforced.

Secs. 10-11 - 10-19. Reserved.

Section 4. That Sections 10-20, 10-23, 10-25, 10-29, 10-30, 10-31, and 10-38 of Article II, "Hauler License", of Chapter 10, "Garbage and Refuse", of the Code of Ordinances, City of Urbana, Illinois, are hereby amended to read as follows:

Sec. 10-20. Business license required.

No person shall engage in the collection and/or transport of Municipal Waste from any Generator, Landscape Waste from any Generator, or Recyclable Materials from a Residential Dwelling located within the City, or advertise such services, without having a valid Hauler Business license issued by the City.

Sec. 10-23. Vehicle registration sticker required.

A valid vehicle registration sticker, issued by the City, is required and shall be displayed on every motorized vehicle used by a Hauler for collection of Municipal Waste generated within the City.

Sec. 10-25. Vehicle operating requirements.

(A) All vehicles used for the collection and/or transportation of Municipal Waste, Landscape Waste, Recyclable Materials, or Special Wastes operating within the corporate limits of the City shall be operated and maintained in accordance with all applicable state or federal laws.

(B) All vehicles used for the collection or transportation of Municipal Waste, Landscape Waste, or Recyclable Materials generated within the corporate limits of the City shall conform to the following requirements:

(1) shall have the business name and phone number clearly visible on both sides of the vehicle; and

(2) shall be kept in a neat, clean, and sanitary condition, and shall be maintained so that they will not become offensive to the sense of smell of a person of ordinary sensibilities; and

(3) shall have and utilize a water-tight bed or receptacle and be constructed and operated in such a manner that no portion of the contents conveyed therein shall be scattered or left in or upon private or public property; and

Sec. 10-29. Service level requirements.

(A) All Haulers providing regularly scheduled Municipal Waste collection services to Residential Dwellings are required to offer and provide a basic service level consisting of once-per-week backdoor and/or curbside collection of one thirty-two gallon container of Municipal Waste.

(B) Haulers are permitted to offer and provide additional levels of Municipal Waste collection service, including different frequencies of collection and different quantities of collection.

Sec. 10-30. Rates and charges.

(A) All Haulers providing Municipal Waste collection services to Residential Dwellings shall establish and file with the Director of Public Works a schedule of rates for all service levels offered to new customers by the Hauler on a form approved by the Director of Public Works on or before June 30th of each year.

(B) The rates of all service levels to all customers shall be based upon the quantity of Municipal Waste collected and shall include a volume based price differential in an amount determined by the Hauler.

(C) No rates shall be offered to new customers unless or until a schedule setting forth the newly proposed rates are placed on file with the Director of Public Works.

(D) The Director of Public Works shall keep such schedules on file and available for public inspection or copying.

Sec. 10-31. Reports.

All licensed Haulers shall submit a certified written quarterly report, on forms provided by the City, to the Director of Public Works. Such reports shall be submitted no later than fifteen days following the end of each calendar quarter. The report shall contain:

(A) The quantity, by weight, of Recyclable Materials, where any of the load of the collecting vehicle was collected within the City, and delivered to a recycling processor and identification of the processor to which the load was delivered. Haulers shall make a good-faith effort to estimate the quantity by weight of the Recyclable Materials so collected where only part of the load was collected in the City.

(B) The information provided by Haulers to the City as required herein shall be considered exempt from the Freedom of Information Act disclosure by the City upon assertion as to its proprietary nature by the Hauler.

Sec. 10-38. Exemptions.

The following are exempt from the provisions of this Article:

(A) Any person that collects Municipal Waste, Landscape Waste or Recyclable Materials from property owned or managed by that person and transports such materials directly to an licensed IEPA facility or as provided by State law.

(B) Landscape companies, Commercial/Industrial Recyclers, and any person that collects only Construction or Demolition Debris.

(C) Collection operations performed by the University of Illinois.

Section 5. That Sections 10-75, 10-76, and 10-77 of Article IV, "Recycling", of Chapter 10, "Garbage and Refuse", of the Code of Ordinances, City of Urbana, Illinois, are hereby amended to read as follows:

Sec. 10-75. Recycling collection permitted.

Licensed Haulers may provide backdoor or curbside collection of Recyclable Materials pursuant to the provisions of this Chapter.

Sec. 10-76. Recyclable materials.

(A) Haulers shall deliver all Recyclable Materials collected in Urbana to a recycling processing facility to be processed and returned to the economic mainstream in the form of raw materials or products. Haulers shall retain for a period of one (1) year, receipts for all Recyclable Materials collected in Urbana and delivered to a recycling processing facility and shall, upon not less than fourteen (14) days written request from the City, submit such receipts to the City for inspection.

(B) No Hauler shall deliver any Recyclable Materials collected from generators who intended such materials to be recycled, directly to a landfill for ultimate disposal unless such recyclable materials have been determined to be unsuitable for processing or unable to meet market specifications by the recycling processing facility, or the Director of Public Works has determined that there is no longer a market for the recyclable material collected.

Sec. 10-77. Recycling containers.

Haulers shall only collect Recyclable Materials from containers or bags that clearly identifies the Hauler. Such identification may be made by identifiable printing on containers or bags, the use of stickers, or any similiar device of sufficient size to readily enable identification. Haulers shall require generators to place Recyclable Materials in containers which are of a sufficient size and type to minimize the littering of the materials.

Secs. 10-78 - 10-94. Reserved

Section 6. That Chapter 10, entitled "Garbage and Refuse", of the Code of Ordinances, City of Urbana, Illinois, is hereby retitled as "Solid Waste Management", of the Code of Ordinances, City of Urbana, Illinois.

Section 7. That subsection (I) "Solid Waste" of the Schedule of Fees prescribed by Section 14-7 of the Code of Ordinances, City of Urbana, Illinois, is hereby amended to read as follows:

(I) SOLID WASTE

- (1) Regional Pollution Control Facility, annually. \$2,000.00
- (2) Hauler Business license: The annual Business license fee shall be Two Hundred Dollars (\$200.00) for each business engaged in the collection of Municipal Waste from any Generator, Landscape Waste from any Generator, or Recyclable Materials from Residential Dwellings in the City. Any person with an ownership interest of more than twenty percent (20%) in any entity which is required to purchase an annual Hauler's Business license may purchase one (1) license for all such entities; provided, however, that any proceedings to suspend or revoke the license shall apply to all entities covered by that license.
- (3) Vehicle registration sticker: The annual vehicle sticker fee shall be One Hundred Dollars (\$100.00) per motorized vehicle used by a hauler for collection of Municipal Waste.

Section 8. Should any section, paragraph, sentence, clause, phrase or word of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph or section.

Section 9. All ordinances, resolutions or motions or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 10. This Ordinance shall take effect at 12:01 a.m. on April 1, 1996, provided, however, the provisions of Section 7 of this Ordinance requiring a hauler business license and vehicle registration sticker shall be in effect for the entire license year, the term of which commenced July 1, 1995 and ends June 30, 1996.

Section 11. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities.

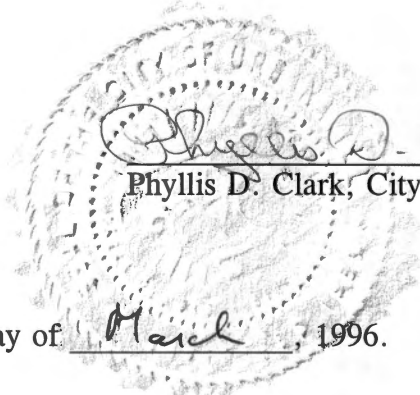
This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a regular meeting of said Council.

PASSED by the City Council this 4th day of March, 1996.

AYES: Hayes, Kearns, Patt, Pollock, Ryan, Taylor

NAYS: Whelan

PRESENT:



Phyllis D. Clark
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this 7th day of March, 1996.

Tod Satterthwaite
Tod Satterthwaite, Mayor



CERTIFICATE OF PUBLICATION
IN PAMPHLET FORM



I, PHYLLIS D. CLARK, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the 4th day of March, 1996, the corporate authorities of the City of Urbana passed and approved Ordinance No. 9596-42, entitled "AN ORDINANCE AMENDING CHAPTER TEN OF THE CODE OF ORDINANCES, CITY OF URBANA, ILLINOIS REGULATING THE LICENSING OF HAULERS"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 9596-42 was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the 7th day of March, 1996, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

Dated at Urbana, Illinois, this 7th, day of March, 1996.

(SEAL)



Phyllis D. Clark by
Phyllis D. Clark, City Clerk

Robert J. Roberts, Deputy Clerk