

## Memorandum

To: Honorable Mayor Shetter and members of the Burleson City Council

From: Aaron Russell, P.E., Director of Public Works

Date: April 6, 2009

Subject: Ordinance B-772-07(A0409), amending Chapter 82 Article III establishing obligations, duties and responsibilities for collection of residential garbage and recycling and non-residential garbage collection, to include the establishment of an exclusive franchise for collection of solid waste utilizing a private service provider. (First Reading)

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### **Council Action Requested:**

Approve Ordinance B-772-07(A0409), establishing obligations, duties and responsibilities for collection of residential garbage and recycling and non-residential garbage collection to include the establishment of an exclusive franchise for collection of solid waste utilizing a private service provider. (First Reading)

### **Background Information:**

In October 2008, staff issued a Request for Proposals (RFP) to private vendors regarding collection of solid waste within the city limits. The vendors were asked to submit proposals regarding solid waste collection considering three options. Option No. 1 would include collection and disposal of commercial and industrial solid waste only. Option No. 2 would include collection and disposal of residential and non residential solid waste currently collected by City of Burleson forces only. Option No. 3 would include collection and disposal of commercial and residential solid waste. Staff received five (5) proposals which were evaluated and presented to council for direction. Council directed staff to move forward with negotiations with I.E.S.I. TX Corporation regarding collections and disposal of solid waste for residential and non-residential customers currently served by City of Burleson forces (Option No. 2).

The changes to the ordinance account for the privatization of this solid waste collection. The changes also clarify the definitions of Residential Unit, Non-Residential Unit, and Commercial or Industrial Unit. The Non-Residential Unit Classifications were simplified

to reflect the rates in the proposed collection contract. The previous classifications were based upon types of businesses while the new classifications are based upon maximum garbage volume that will be collected each week. Minor collection will have a maximum volume of 10 bags per collection or 1-96 Gallon cart. Major collection will have a maximum volume of 20 bags per collection or 2-96 Gallon carts. The carts will be an additional option for the non-residential customers provided by the contractor.

Additionally, the revised ordinance defines an allowable disposable container that can be used in addition to bags. This is a new accommodation agreed to by I.E.SI.

**Board/Citizen Input:**

N/A

**Financial Considerations:**

There is no expenditure of municipal funds associated with this item.

**Attachments:**

Ordinance B-772-07(A0409)

**Staff Contact:**

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**ORDINANCE B-772-07 (A0409)**

**AN ORDINANCE AMENDING ARTICLE III OF CHAPTER 82 OF THE CODE OF ORDINANCES OF THE CITY OF BURLESON; ESTABLISHING OBLIGATIONS, DUTIES AND RESPONSIBILITIES FOR COLLECTION OF RESIDENTIAL GARBAGE AND RECYCLABLES AND NON-RESIDENTIAL GARBAGE COLLECTION; REQUIRING A LICENSE TO COLLECT GARBAGE FROM NON-RESIDENTIAL PREMISES; PROVIDING FOR ISSUANCE OF LICENSES TO OPERATE A NON-RESIDENTIAL SOLID WASTE COLLECTION SERVICE; AMENDING THE REQUIREMENTS FOR CONTAINERS FOR CUSTOMERS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Burleson, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the accumulation of garbage, trash and solid waste on the premises of residences and businesses, institutions and non-residential enterprises and in the streets of the city constitutes a public menace and nuisance, and greatly increases the danger of the spread of disease; and

**WHEREAS**, the city deems garbage collection to be such an important city service for protecting the public health that residential garbage collection by the city is required of all occupied residences within the city limits;

**WHEREAS**, it is necessary to adopt regulations governing the collection of garbage and solid waste to protect the health and safety of the citizens of Burleson; and

**WHEREAS**, the City Council finds that it is in the best interests of the citizens to adopt regulations for the collection of garbage and solid waste from premises within the city;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLESON, THAT:**

**SECTION 1.**

That Chapter 82 Article III of the Code of Ordinances of the City of Burleson be amended to read as follows:

**ARTICLE III.  
SOLID WASTE COLLECTION**

**Sec. 82-81. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Brush* means clean woody vegetative material not greater than six inches in diameter that result from landscaping maintenance. The term does not include stumps, roots, or shrubs with intact root balls.

*Bundling* means tying, taping, strapping, or wrapping items such as cardboard and wooden shipping containers, wooden boxes, cartons, crates, or other pre-shaped packaging materials, in a secure manner suitable for handling by the collection person.

*City* means the City of Burleson, Johnson and Tarrant Counties, Texas.

*City Manager* means the person appointed by the city council to serve as the City Manager of the city or his or her designated representative.

*Clearing Operations* means the removal of unwanted trees and other vegetative matter from residential property that exceeds ordinary seasonal landscaping and maintenance on a typical residential lot not exceeding 12,000 square feet in size.

*Commercial or Industrial Unit* means any structure or business other than a Residential Unit or a Non-Residential Unit, and includes hotels, motels, structures containing more than four (4) dwellings and residential care facilities,

*Disposable Container* means any box, carton, or other container intended by the Residential or Non-Residential Unit for the disposal of Municipal Solid Waste. Total weight of a Disposable Container and its contents shall not exceed 35 lbs.

*Farm, ranch, or orchard* means an area of three acres or more which is used for the primary purpose of growing usual farm products, vegetables, fruit trees, and grain and for the raising of the usual farm poultry and farm animals such as horses, cattle and sheep. Also includes the necessary accessory uses for raising, treating, and storing products raised on the premises. (This is a non-residential use.

*Garbage* means solid waste that is putrescible, animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

*Hazardous waste* means solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency under the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.).

*Landscaping maintenance* means the seasonal activities necessary to keep a landscape healthy, safe and attractive, typically in a garden or residential yard and which may include annual plantings and harvesting, periodic weeding and fertilizing and pruning.

*Non-Residential Unit* - Any manually collected location within the corporate limits of the City that is designated as such by the City Manager and is not a Residential Unit or Commercial/Industrial Unit.

*Non-Residential Unit classifications:*

Minor Non-Residential Unit- Any manually collected Non-Residential Unit requiring up to ten bags or one 96 gallon container per collection.

Major Non-Residential Unit- Any Manually collected Non-Residential Unit requiring over ten bags up to twenty bags or two 96 gallon containers per collection.

*Owner* means the actual fee holder of the title to residential property and does not include tenant, lessee or subleases.

*Person* includes both singular and plural and shall mean and embrace any person, firm, or corporation, their agents, servants and employees.

*Premises* means places of business, offices, theaters, hotels, apartments, schools, residences, vacant lots and all other places within the City where garbage or trash accumulates.

*Recyclable material* means a material that has been recovered or diverted from the nonhazardous waste stream for the purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recyclable material is not solid waste. However, recyclable material may become solid waste at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be solid waste with respect only to the person actually abandoning or disposing of the material.

*Recycling* means the legitimate use, reuse, or reclamation of solid waste.

*Residential Unit* means a dwelling within the corporate limits of the City occupied by a person or group of persons comprising not more than four (4) families including a condominium dwelling, whether of a single or multi-level construction,

consisting of four (4) or fewer contiguous or separate single family dwelling units when billed separately.

*Residential garbage collection* means solid waste collection service provided to a Residential Unit; all other garbage collection shall be deemed non-residential garbage collection or commercial / industrial solid waste collection.

*Solid waste collection service* means the business of removing garbage or trash from any premises.

*Trash* means non-putrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible trash includes paper, rags, cartons, wood, wood shavings, furniture, rubber, plastics, and brush; noncombustible trash includes glass, crockery, tin cans, aluminum cans, metal and similar materials that will not burn at ordinary incinerator temperatures. The term does not include grass clippings or leaves.

**Sec. 82-82. Collection required; duty of occupant to prepare for disposal.**

(a) **Collection required.** Every person who owns, occupies or controls any premises in the city shall have garbage and trash removal.

(b) **Duty of occupant.** Every occupant of a premises in the city shall prepare garbage and trash for disposal and provide and maintain containers, as hereinafter specified, for the disposal of garbage and trash which accumulates on the premises.

**Sec. 82-83. Residential Unit garbage collection by City or City's Contracted Waste Collection Service.**

(a) Except as otherwise provided herein, it shall be unlawful for any person to engage in the business of collecting garbage from Residential Units or Non-Residential Units or providing residential recycling services within the city except as may be specifically authorized by contract with the city.

(b) **Placement.** An occupant of a Residential Unit shall place all garbage in containers as described herein, within five feet of the curbside of the Residential Unit, on or near a common property line, or at such other location as the City Manager shall find accessible and suitable to facilitate efficient collection.

(c) **Schedule.** An occupant of a Residential Unit shall place garbage scheduled for collection on a given day at a location specified in Section (b) of this section. Failure to meet such a schedule on the part of the customer forfeits the collection service for the customer on that day. It is the responsibility of every person whose garbage is to be collected to become familiar with the scheduled garbage pickup days for such person's street.

(d) **Curbside placement time restriction.** An occupant of a Residential Unit shall not allow garbage contained as designated herein to remain at curbside or on or near a common property line for a period longer than twelve (12) hours prior to the start of solid waste operations on the next collection date, regardless of the reason. It shall be the responsibility of the occupant of a Residential Unit to retrieve and store said garbage until the next appropriate pickup or collection date, at which time it may be returned to the designated collection point.

(e) **Curbside placement quantity restriction.** An occupant of a Residential Unit shall not place at curbside more than 10 disposable bags of garbage on any given collection day. On those occasions when accumulations of garbage exceed the 10 bag limit, and multiple set-outs will be required to complete disposal, the occupant will be responsible for all costs associated with temporary roll-off container service.

### **Sec. 82-84. Residential Unit Collection - Containers.**

(a) **Bags Required.** A person occupying any Residential Unit in the city shall use disposable garbage bags for collection by the city or the city's contracted waste collection service. Only such bags as are manufactured for use as garbage containers shall be approved by the city (no shopping bags). Each bag used shall be tightly sealed when prepared for collection so as to prevent any contents from spilling or coming out when such bags are handled or collected. The city or the city's contracted waste collection service will not remove garbage or garbage bags from cans, cages, or other holding facilities.

(b) **Disposable Container.** A person occupying any residence in the city may use a disposable container to hold garbage or trash that may be hazardous to the collector. An example would be broken glass or sharp materials.

(c) **Exceptions to bags or disposable containers.** Customers may "bundle" certain items such as shipping container cardboard and wooden boxes, cartons, crates, or other pre-shaped packaging materials in lieu of placing these materials within a disposable bag.

(d) **Bundling Requirements.** A person shall, when bundling, include tying, taping, strapping, or wrapping, in a secure manner suitable for handling by the collection person. In no case shall the city or the city's contracted waste collection service collect garbage which is bundled in lengths greater than four (4) feet

(e) **Weight.** No disposable bag, container, or bundled material shall bear a weight exceeding thirty-five (35) pounds. This weight limit is further defined as that weight which can be reasonably lifted by one collection person.

(f) **Damage.** In the event disposable bags are not constructed of a material adequate to withstand the elements of weather, or damage caused by animals, regardless of the fact that a disposable bag may meet specifications herein, and the disposable bag or container is damaged to the point of losing its garbage-carrying capability, as determined by the city or the city's contracted waste collection service, the

city or the city's contracted waste collection service shall assume no responsibility for the collection of such garbage.

### **Sec. 82-85. Garbage collection from Non-Residential Units.**

All customers meeting the Non-Residential Unit classification receiving garbage collection from the city or the city's contracted waste collection service shall place all garbage in containers as described herein, at curbside, or at such other location as the City Manager shall find accessible and suitable to facilitate efficient collection. Garbage scheduled for collection on a given day shall be placed at an appropriate collection point prior to collection. Failure to meet such a schedule on the part of the customer forfeits the collection service for the customer on that day. It is the responsibility of every person whose garbage is to be collected to become familiar with the scheduled garbage pickup days for such person's premises.

### **Sec. 82-86. Non-Residential Unit containers.**

(a) **Containers generally.** Every owner of a building or structure which is classified as a Non-Residential Unit and which receives garbage collection service from the city or the city's contracted waste collection service shall use disposable garbage bags or disposable containers, as specified in Section 82-84. In addition, such non-residential customers are authorized to use non-residential type containers provided by the licensed private hauler and designed for the collection of non-residential garbage volumes. The city will not remove garbage, garbage bags, or other disposable garbage containers from cans, cages, or other holding facilities not provided by the licensed private hauler.

(b) **Bundling.** Non-Residential Unit customers may "bundle" certain items such as shipping container cardboard and wooden boxes, cartons, crates, or other pre-shaped packaging materials in lieu of placing these materials within a disposable bag.

(1) **Requirements.** A person shall, when bundling, include tying, taping, strapping, or wrapping, in a secure manner suitable for handling by the collection person. Bundled material shall bear a weight not to exceed thirty-five (35) pounds. This weight limit is further defined as that weight which can be reasonably lifted by one collection person. In no case shall the city collect garbage which is bundled in lengths greater than four (4) feet.

(2) **Storage.** The Non-Residential Unit customer may store materials which are bundled at a holding facility approved by the City Manager or the city's contracted waste collection service. The city or the city's contracted waste collection service shall not be responsible for the collection of loose garbage and materials not contained or bundled.

### **Sec. 82-87. Removal prohibited.**

(a) **Offense.** A person commits an offense if the person removes any item from a garbage container, trash receptacle or holding facility which has been placed on the curbside of any residence or at the designated collection location of any business. The meddling with garbage containers or trash receptacles of any kind or pilfering from or the scattering of the contents of any garbage container within the city is prohibited.

(b) **Exceptions.** The provisions of Section 82-87(a) shall not apply to:

- (1) city employees who may be required to take such action in order to provide city services;
- (2) persons employed by a corporation which has a franchise or license with the city to collect garbage or trash; or
- (3) the owner of the real property on which the garbage container is placed.

**Sec. 82-88. Frequency of garbage collection.**

Residential and non-residential garbage collection provided by the city or a licensee shall be made as necessary to comply with the sanitary regulations of the city.

**Sec. 82-89. Trash collection.**

(a) **Eligibility.** Trash collection service will be provided by the city or the city's contracted waste collection service only to persons receiving Residential Unit garbage collection from the City of Burleson.

(b) **Schedule.** Trash as defined by this article will be collected in accordance with this section.

(c) **Frequency.** The city or the city's contracted waste collection service shall operate a trash collection service on a schedule separate from regular residential and non-residential garbage collection service. Frequency of collection service will be determined based on general community trash volumes generated, and the labor capacity of the city or the city's contracted waste collection service to make such collection, as determined by the City Manager.

(d) **Requirements.** The city or the city's contracted waste collection service will collect trash provided:

- (1) All trash, is contained within disposable bags or containers, and/or is bundled as required in Section 82-86(a) and (b) or is dismantled or broken down in such manner as to afford easy and convenient hauling by the collection person.

(2) All tree limbs and branches shall be cut in lengths not to exceed four (4) feet and stacked at curbside or at such other location as the City Manager or the city's contracted waste collection service shall find accessible and suitable to facilitate efficient collection.

(3) With the exception of furniture, appliances and other household items that can not be easily broken down or dismantled, any trash bag, container, bundle or other item placed for disposal shall not bear a weight in excess of thirty-five (35) pounds. This weight limit is further defined as that weight which can be reasonably lifted by one collection person.

(e) **Trash not collected by city or city's contracted waste collection service.** The city or the city's contracted waste collection service will not collect the following types of trash:

(1) Grass or grass clippings, leaves, dirt, rock, concrete, roofing materials, building materials, or other items resulting from building, remodeling, or repairing operations or trash and yard waste resulting from clearing operations. Such trash shall be removed by the owner, contractor or representative, or occupant of the building at the owner's expense.

(2) Manure from cow lots, horse stables, poultry yards, pigeon lofts, and other related barn or farm type use, and waste greases and oils from garages, service stations, or industrial firms shall be disposed of by the owner and at the owner's expense, according to the sanitary regulations of the city.

(3) Paint and other household hazardous waste, greases, oils, and auto parts (including tires and batteries).

(4) Trash and yard waste from non-residential establishments.

(5) Trash and yard waste from residential premises that result from clearing operations.

(6) Refrigerators, freezers, dehumidifiers, air-conditioning units, and other appliances containing CFCs (chlorofluorocarbons)/HCFCs (hydrochlorofluorocarbons). These items shall not be collected until the customer has provided proof to the collector that CFCs/HCFCs have been removed from the appliance by a licensed technician.

### **Sec. 82-90. Provisions for Unoccupied Single Family Residential Property.**

It is the responsibility of an owner of residential rental property to dispose of trash at unoccupied residential rental property. The owner at unoccupied residential rental property must dispose of the trash via a certified waste handler or by disposing at a certified landfill. Should the owner of residential rental property fail to dispose of this trash in accordance with this section, the trash is a nuisance and will be addressed in accordance with Section 34 of the City Code.

**Sec. 82-91. Residential Recyclables Collection.**

(a) In order to help the city achieve its state-mandated recycling goal of forty (40) percent, in order to reduce the amount of material deposited in area landfills and thereby extend the life of such landfills, and in order to reduce the amount of virgin materials being used in manufacturing, the city strongly encourages its citizens to participate in the city's household recycling program

(b) Recyclables shall be placed for city household collection service only in recycling bins provided by the city.

(c) The following materials may be placed in recycling carts for collection:

- Plastic containers numbered 1,2,3,4,5 and 7
- Unbroken glass bottles and jars (all colors)
- Aluminum cans
- Tin food cans (rinsed)
- Dry, unyellowed newsprint (with slicks and ads)
- Phone books
- Magazines/Catalogs/Junk Mail
- Chipboard (cereal boxes)
- Uncoated cardboard
- Empty aerosol cans

(d) The City Manager is authorized to add and delete materials to subsection (c), as the market for recyclables changes.

(e) The City Manager is authorized to amend preparation requirements for recyclables in accordance with market variables.

(f) A person commits an offense if the person removes or causes the removal of recyclables from a recycling container placed for collection.

(g) It is an exception to an enforcement action brought for a violation of subsection (f) that the person was a member of the household that placed the recyclables for collection, or a sanitation worker employed by the collector who is engaged in city household collection service.

(h) A peace officer acting in his or her official capacity is exempt from subsection (f).

(i) A person commits an offense if a person:

(1) Places prohibited material in a recycling bin for collection in violation of this section; or

(2) Allows prohibited material placed in a recycling bin set out for collection in violation of this section to remain on property under his/her control.

**Sec. 82-92. Fees for garbage and recyclables collection service.**

(a) **Monthly.** A collection fee shall be charged monthly to the following:

(1) Every Residential Unit in the city which is served with water delivered under an active water account with the city.

(2) Every Residential Unit in the city which is served with sanitary sewer service only under an active account of the city.

(3) Every premises which is served with garbage and recyclables collection services by the city and which is not specified by subsection (1) or (2) of this section.

(b) **Due date.** Payment for all such fees for garbage and recyclables collection service are due and payable upon receipt of a bill or notice from the city or a person contracted by the City to provide such billing or notices. A bill is delinquent if not paid within 20 days of the date it is rendered by the City or its contractor.

(c) **Payment required.** A collection fee shall be charged regardless of the actual method of residential garbage or recyclables disposal used by the resident or owner. Payment of a non-residential garbage or recyclables collection fee to the city or a licensee does not relieve this obligation.

(d) **Schedule of fees.** The city council is hereby authorized to adopt a schedule of fees for collection of residential and non-residential garbage, recyclables and trash. Such fees shall be listed in a fee schedule and made available for public inspection by the City Manager.

(e) **Billing.** Fees for Residential Unit and Non-Residential Unit garbage and recyclables collection services shall be entered on the monthly utility bill of any person, owner, manager, tenant, or lessee, who receives such service, and shall be collected monthly in connection with and as a part of the utility bill.

**Sec. 82-93. Delinquent Accounts.**

In addition to all other legal remedies available for collection of a debt, the following actions and remedies are authorized for delinquent payment of the collection fees:

(a) The city may charge a late payment penalty equal to 10% of the amount due.

(b) The city may suspend collection service to the delinquent location;

(c) The water and/or sewer service, if any, serving the delinquent premises may be shut off and terminated.

**Sec. 82-94. Municipal refuse transfer station.**

(a) The city may operate a municipal refuse transfer station to serve as a point of collection for garbage and trash between collection vehicles and high-carrying capacity tractor-trailer hauling vehicles. The municipal refuse transfer station is limited exclusively for use by the city and by any party under permit or contract with the city for use of the facility. Parties eligible to enter into contractual agreement or receive a permit for use of the transfer station include, but are not limited to: (1) persons having a license from the city; (2) certain large volume non-residential customers, (3) other local governments, and (4) haulers of building materials resulting from construction or remodeling operations.

(b) The city council shall set fees for the use of the municipal refuse transfer station based on the full cost of operation in providing such services, including any landfill disposal fees charged to the city for disposal of garbage and trash volumes authorized under permit or contract. Fees shall be paid to the city by the permitted party prior to receipt of services.

(c) Use of the municipal refuse transfer station by the general public is prohibited. This provision may be waived by the City Manager in response to special needs and circumstances not herein specified.

**Sec. 82-95. License for Commercial or Industrial collection required.**

A person commits an offense if the person engages in the business of collection of garbage or trash from Commercial or Industrial Units within the city without first having obtained a solid waste collection license from the city.

**Sec. 82-96. Application for license.**

(a) To obtain a solid waste collection license to collect garbage or trash from Commercial or Industrial Units, a person must submit an application on a form provided by the City Manager. The applicant must be the person who will own, control, or operate the proposed solid waste collection service.

(b) The applicant for a license shall furnish the city the following information which shall be subscribed and sworn to before a notary public:

- (1) Name and address of the applicant;
- (2) Trade name under which the applicant does or proposes to do business;
- (3) The number of vehicles the applicant desires to operate;

(4) The class, size, and design of each vehicle, including the type of body and accessory equipment designed for automated collection;

(5) Whether or not the applicant or any person with whom applicant has been associated or employed has a claim or judgment against such person for damages resulting from the negligent operation of a motor vehicle;

(6) The nature and character of the service the applicant proposes to render;

(7) The rates or fees the applicant proposes to charge for services rendered;

(8) The experience of the applicant in rendering such service;

(9) The customer market for whom applicant proposes to render this service;

(10) Number and location of non-residential customers;

(11) The location of the landfill to be utilized;

(12) Proof of liability insurance in an amount not less than \$1,000,000 per occurrence issued by a company authorized to do business in the State of Texas.

(13) Such other information as the City Manager may require.

(c) The City Manager shall make or cause to be made an investigation of the application for private permit to collect garbage or trash from Commercial or Industrial Units.

(d) The applicant shall submit with the application for the license a non-refundable application fee which shall be in an amount approved by the city council.

**Sec. 82-97 License - term.**

Each license granted by the City Manager for solid waste collection service from Commercial or Industrial Units shall be issued for a period of one year. Each license shall be renewable annually on October first and may be renewed by making application as provided in this section. A license shall be non-transferable.

**Sec. 82-98. License - fee.**

(a) Each licensee shall pay to the city an annual fee for the solid waste collection license to collect garbage or trash from Commercial or Industrial Units in an amount equal to eight percent (8%) of the gross receipts on all revenues and income collected from any source derived from the operation of garbage and trash collection service within the city including temporary or ongoing services through the use of roll-off containers.

(1) The licensee shall remit the fee to the city quarterly at the office of the director of finance, on or before the thirtieth day of April, July, October, and January, based upon the revenues collected during the previous calendar quarter.

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

(3) The licensee shall make available to the city, notifications of new non-residential customers as well as cancellations of existing non-residential customers, as they occur.

**Sec. 82-99. Terms of license.**

The City Manager may impose all reasonable rules and regulations and require the licensee to execute a license agreement as a condition precedent to issuing a license under this article and as a condition subsequent to continuing validity. The rules and regulations may include but are not necessarily restricted to the type of vehicle to be used in collection, number of pickups per week required, method and route for transporting the collection, appropriate disposal locations and identification of trucks. They may also include minimum insurance requirements and execution of an indemnification. All such rules and regulations shall be subject to the approval of the city council and shall be contained in the license agreement issued by the city to any licensee.

**Sec. 82-100. Requirement to furnish information.**

The books and records of the licensee holder shall be open at reasonable times for inspection by the City Manager.

**Sec. 82-101. Marking of vehicles and containers.**

The licensee shall identify all vehicles and solid waste containers with its name in letters at least two inches tall.

**Sec. 82-102. Issuance or denial of license.**

The City Manager shall issue a solid waste collection license to collect garbage or trash from Commercial or Industrial Units to the applicant if the City Manager determines that the applicant:

- (a) Has complied with all requirements for issuance of the license; and
- (b) Has not made a false or inaccurate statement as to a material matter on the application for license.

**Sec. 82-103. Revocation of license.**

The City Manager shall revoke any solid waste collection license issued under Section 82-102 if the City Manager determines that the licensee has:

- (a) Given false, inaccurate or insufficient information on the application for license or in a hearing concerning the license;
- (b) Refused to cooperate in the redress of grievances submitted to the licensee in writing, and by the city or licensee's customers;
- (c) Maintained unsightly or unsanitary collection receptacles after being notified of same in writing by the city or a customer;
- (d) Failed to pay judgments which have been rendered by a court of law for damages or claims associated with a collection service;
- (e) Continued to provide, after written notice from the city, irregular service which is detrimental to the public health;
- (f) Failed to provide information or access to information in accordance with Section 82-100; or
- (g) Failed to pay a fee in the manner required by this article.

**Sec. 82-104. Appeal from denial or revocation of license.**

If the City Manager denies or revokes a license, the city shall give notice by personal service or by certified mail, return receipt requested, to the applicant or licensee. The applicant or licensee may appeal the decision to deny or revoke by filing written notice with the City Manager, within five days after receipt of notice. A person who is denied a license or whose license is revoked may appeal the decision to deny a license to the City Manager and the decision to revoke a license to the city council. The City Manager shall mail or cause to be personally delivered, written notice of the time and place of the hearing to the person appealing. The notice shall be mailed to the address specified in the notice of appeal form. The City Manager, or in an appeal from the revocation of a license, the city council, shall conduct a hearing and shall make a decision on the basis of a preponderance of the evidence presented at the hearing. The decision of the city council shall be final.

**Sec. 82-105. Other disposal prohibited.**

The disposal of any garbage or trash in the city in any other manner than specified in this article is strictly prohibited and is deemed a violation of this Code.

**SECTION II.  
CUMULATIVE CLAUSE**

This ordinance shall be cumulative of all provisions of ordinances of the City of Burleson, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

### **SECTION III. SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in its ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

### **SECTION IV. PENALTY CLAUSE**

Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than two thousand dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

### **SECTION V. SAVINGS CLAUSE**

All rights and remedies of the City of Burleson are expressly saved as to any and all violations of the provisions of Chapter 82, Article III of the Code of Ordinances of the City of Burleson and or any other ordinances affecting garbage which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

### **SECTION VI. PUBLICATION CLAUSE**

The City Secretary of the City of Burleson is hereby directed to publish in the official newspaper of the City of Burleson, the caption, penalty clause, and effective date clause of this ordinance at least two (2) times within fourteen (14) days after the passage of this ordinance as required by Section 36 of the Charter of the City of Burleson.

### **SECTION VII.**

**EFFECTIVE DATE CLAUSE**

This ordinance shall be in full force and effect June 1, 2009, and after its passage and publication as provided by law.

**PASSED AND APPROVED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009**

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

EFFECTIVE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
City Attorney