

TOWNSHIP OF CHARLESTON
COUNTY OF KALAMAZOO, STATE OF MICHIGAN
ORDINANCE NO. 138
RESIDENTIAL WASTE REDUCTION ORDINANCE

ADOPTED: December 18, 2007

EFFECTIVE: January 27, 2008

An ordinance to protect and promote the public health, safety, and welfare of the inhabitants of the township by regulating the collection of residential garbage and recyclables in a manner that will promote waste reduction; and to repeal Ordinance No. 101.

TOWNSHIP OF CHARLESTON
KALAMAZOO COUNTY, MICHIGAN

ORDAINS:

ARTICLE 1

PURPOSE; CURRENT CONTRACTS; DEFINITIONS; SANCTIONS

Section 1-1. Purpose.

(a) The purpose of this ordinance is to protect and promote the public health, safety, and welfare of the inhabitants of the township by regulating the collection of residential garbage and recyclables in a manner that will promote waste reduction.

(b) This ordinance does not prevent persons or entities from marketing or disposing of collected materials where the persons or entities choose, as long as the collected materials are marketed or disposed of in a manner which is consistent with local, state and federal requirements.

(c) Recyclables collection service is required for all garbage pickup customers. Customers will be charged for the service even if not utilized.

Section 1-2. Current Contracts.

This ordinance is not intended to alter or delete terms or conditions of any existing contract or franchise or the township's rights and abilities to develop other means of

providing garbage, recycling or trash service through, for example, but not limited to, collection services provided by municipal crews or a private contractor.

Section 1-3. Definitions.

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

- (a) “curbside collection” means the gathering by a hauler of designated materials placed by a customer within six feet of the curb or road’s edge.
- (b) “garbage” means all waste consisting of or in general contact with putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and other customary miscellaneous residential waste, such as consumer packaging used for food products.
- (c) “hauler” means any person or entity involved in the business of collecting residential garbage generated within this jurisdiction.
- (d) “licensing agent” means the township or a person or public agency designated by the township to perform administrative duties specified in this ordinance.
- (e) “prohibited items” means items which cannot be lawfully deposited in a Type II Landfill as defined by state law. (Natural Resources and Environmental Protection Act, 1991 Public Act 451, as amended.)
- (f) “recyclable material” and “recyclables” mean waste materials which can be converted to a useful product and for which there is a market. Examples of recyclable materials include corrugated cardboard, office paper, newspaper, glass jars and bottles, and certain plastics and metals.
- (g) “trash” means all large rubbish and debris of a domestic or household character, except garbage, recyclables or any prohibited item. Recyclable containers containing trash shall be deemed trash for the purpose of this ordinance.
- (h) “unit-based fees” means a fee system used by a hauler to charge for services based on the amount (weight or volume) of the material being collected from the customer. Fees progressively based on the collection container size shall be deemed “unit-based fees” for the purpose of this ordinance.

Section 1-4. Sanctions.

A hauler who violates any of the provisions of this ordinance shall be deemed to be responsible for a municipal civil infraction as defined by state statute and shall be subject to a civil fine of not more than \$500.00 along with costs which may include all

expenses, direct and indirect, which the township has paid in connection with the municipal civil infraction. Each date that a violation occurs shall constitute a separate offense. The sanctions in this section shall be in addition to the rights of the township to proceed under Section 2-6 or at law or equity with other appropriate and proper remedies.

ARTICLE 2

HAULER LICENSE

Section 2-1. License Required.

No person or entity shall operate as a hauler within the township without first obtaining and having in effect a hauler license issued pursuant to this ordinance.

Section 2-2. License Application.

(a) The application shall include the following information:

- (1) The name, local address, and telephone number of the hauler.
- (2) The name, address and telephone number of the hauler's main office, if the local office is a subsidiary or branch location;
- (3) Proof of insurance.
- (4) The signature of an authorized officer or employee of the hauler.

(b) A licensee shall notify the licensing agent, in writing, prior to any substantial change in the information provided in the application.

Section 2-3. License Application Fee and Renewal Fee.

(a) Application or renewal licensing fees shall be paid by the applicant upon submittal of the application to the licensing agent. The application and renewal fees shall be set by the licensing agent. If the township designates the county as the licensing agent under this ordinance and one or more other municipalities do the same, a single application fee paid by the hauler to the county for a hauler license shall satisfy the application fee requirement for those municipalities. The fees shall be reasonable and shall not exceed the cost of administering this ordinance.

(b) A license shall expire on December 31 of each year.

Section 2-4. License Approval or Denial.

(a) Upon receipt of a completed application and the application fee, the licensing agent has up to 45 days to determine the accuracy of the information on the application. If the information on the application is found to be accurate, the licensing agent shall issue a written notice of approval no later than 45 days after receipt of the application. If any inaccuracy becomes apparent, the licensing agent shall inform the applicant of the inaccuracy by certified mail and request a correction.

(b) The applicant's failure to submit the requested correct information by not later than 12:00 midnight of the seventh calendar day following receipt of the original request for corrected information shall result in no further consideration of the application until such time as the hauler files a completed new application and a new application fee.

(c) Notice of denial shall be sent to the applicant by certified mail. The notice shall include the notification of the right of the applicant to request reconsideration of the denial and to have a hearing thereon before the licensing agent. Any such request for reconsideration shall be filed in writing with the licensing agent within ten days from the date of mailing of the notice of denial. The hearing shall be noticed and conducted by the licensing agent in substantial accordance with the procedures set forth in Section 2-6.

Section 2-5. License Suspension and Revocation By Township.

(a) The township may, acting in accordance with Section 2-6, suspend or revoke a hauler's license to operate within the township's jurisdiction.

(b) A license may be suspended or revoked for any of the following reasons:

- (1) The failure of the licensee to substantially comply with this ordinance or any other applicable federal, state, county or local laws or regulations;
- (2) Misrepresentations of any material fact contained in the license application
- (3) The failure to provide accurate information to customers on the inseparability of the fee for garbage and recyclables collection;
- (4) The failure of the licensee to timely pay any municipal civil infraction fine, costs or expenses imposed for violation of this ordinance.

(c) If a license is suspended, it shall remain suspended until such time as the licensing agent determines the reason(s) for the underlying suspension have been fully remedied. If a license is revoked, the licensing agent shall not issue a new license until a new completed application and new application fee has been received. Upon license revocation the hauler shall be considered unlicensed pursuant to this ordinance.

Section 2-6. Procedure to Suspend or Revoke License.

(a) Written notice of a public hearing to consider suspension or revocation of a license shall be mailed by certified mail to the licensee at its last known address, not less than seven days prior to the public hearing at which the suspension or revocation of the licensee will be considered. The notice shall indicate the date, time, and location of the hearing. The notice shall also include a statement of the reasons for the proposed suspension or revocation.

(b) The public hearing shall provide the opportunity for the licensee to present witnesses and question any adverse witnesses as may appear at the hearing.

(c) Any suspension or revocation imposed by the township shall be based upon a full consideration of the evidence presented at the public hearing.

(d) The township shall have 30 days from the date of the public hearing to make a determination. Written notice of the determination, along with a statement of the reasons for the determination, shall be mailed by certified mail to the last known address of the licensee no later than eight days after the township's decision.

Section 2-7. License Non-Transferability.

A license shall not be transferable or assignable to another.

ARTICLE 3

HAULER REQUIREMENTS

Section 3-1. General Requirements.

(a) A hauler shall provide the following curbside collection service to its residential customers in buildings containing four dwelling units or less:

(1) Garbage collection and recyclables collection.

(b) Customers shall be permitted to purchase the following service on an as needed basis.

(1) Trash pick-up.

(c) A hauler shall not limit the amount of residential recyclable materials from each customer as long as the materials are generated by that customer.

(d) A hauler shall offer at least three garbage collection container size options.

(e) Haulers shall abide by local ordinances which regulate days when materials are collected.

Section 3-2. Frequency of Service.

(a) A hauler shall offer regular curbside residential garbage collection service a minimum of once per week and recyclables collection service no less than once per month.

Section 3-3. Fees.

(a) A hauler shall clearly and separately indicate on the customers billing statements the fees for each of the following collection services purchased every time the customer is billed, and also indicate that by actively recycling customers will be able to reduce their waste bills through the use of smaller garbage containers:

(1) Garbage collection and recyclables collection

(2) Trash pickup

(b) Fees for residential collection services shall be “unit-based”, with the exception of recyclables collection which shall not be unit-based.

(c) Under certain circumstances, i.e. persons with disabilities, back door services may be provided without an additional charge.

Section 3-4. Minimum Liability Insurance Requirement.

(a) All haulers shall provide proof of minimum liability insurance when working in the township as follows:

(1) Commercial general liability, including contractual liability, independent contractors’ coverage, and broad form general liability extensions:

- Personal/bodily injury:
 - Each person \$1,000,000
 - Each accident \$1,000,000
- Property damage:
 - Each accident \$1,000,000
 - Each aggregate \$1,000,000

(2) Motor vehicle liability (including hired cars and auto non-ownership):

- Bodily Injury:
 - Each person \$1,000,000
 - Each occurrence. \$1,000,000
- Property Damage:
 - Each accident \$1,000,000
 - Each aggregate \$1,000,000

(b) The insurance company providing the insurance in subsection (a) of this section to the hauler must be licensed to do business in the state, recognized by the state insurance bureau, and have a rating in the latest Best rating of B+ or better.

(c) The insurance policy shall include an endorsement stating that it is understood and agreed by the hauler and its insurance company that 30 days advance written notice of cancellation, nonrenewal, reduction, and/or material change of the insurance policy shall be sent to the licensing agent and township.

Section 3-5. Educational Requirement.

(a) Annual educational notice. On an annual basis, all haulers shall distribute to their residential customers, the township, and the licensing agent, printed material which communicates the availability of and includes the details and procedures for the collection services regulated in this ordinance. Haulers may distribute the printed materials with customer billings or appropriate leave-behind tags for its customers.

A hauler shall notify its residential customers of any material changes in service and cost that affect the customer on or before the next billing cycle.

(b) Educating noncompliant customers. If a customer of the hauler does not properly prepare materials for collection, a hauler is not obligated to pick up the material if, by collecting the materials, a hauler places itself in a position of non-compliance with this ordinance or other applicable law. In such cases, the hauler shall notify the customer of the potential violation and provide instructions to the customer on how to comply. The notification shall be as follows: a leave-behind tag, a letter, telephone and/or direct personal communication.

Section 3-6. Reporting Requirement.

In order to permit public evaluation of the waste reduction measures promoted in this ordinance, all haulers shall file annual reports with the licensing agent by January 15th of each year. The report shall contain verifiable information of the weight of residential recyclables collected by the hauler within the areas regulated by this Ordinance.

ARTICLE 4

EFFECTIVE DATE; REPEAL

Section 4-1. Repeal Ordinance No. 101 (Residential Waste Reduction Ordinance) effective April 22, 1995 is hereby repealed.

Section 4-2. Effective Date.

This ordinance shall take effect 30 days after publication as required by law.

**Linda Kramer, Clerk
Township of Charleston**