Chapter 39

# SOLID WASTE AND LITTER CONTROL*


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| **Art. I.** | **In General, §§ 39-1—39-15** |
| **Art. II.** | **Department of Solid Waste Management, §§ 39-16—39-29** |
| **Art. III.** | **Houston Clean City Commission, §§ 39-30—39-47** |
| **Art. IV.** | **Collection Services, §§ 39-48—39-94** |
| | Div. 1. Generally, §§ 39-48—39-60 |
| | Div. 2. Containers, Etc., §§ 39-61—39-76 |
| | Div. 3. Special City Collection Services, §§ 39-77—39-94 |
| **Art. V.** | **Litter Control, §§ 39-95—39-110** |
| **Art. VI.** | **Commercial Solid Waste Operators, §§ 39-111—39-117** |


## ARTICLE I. IN GENERAL

### Sec. 39-1. Definitions.

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

*Alley* shall mean a public right-of-way which is used only for secondary access to individual properties which have their primary access from an adjacent public street or an approved common or compensating open space or courtyard which has direct access to a public street.

*Bulk container* means any container used for the collection and/or disposal of solid waste which is designated and intended:

a. To be transported from the premises where it is used by mechanical means with its contents to the dumpsite; or

b. To be emptied by mechanical means upon the premises where it is used into a waste transport vehicle.

Without limitation, it includes the "dumpster" type containers which are commonly used in multifamily residential, commercial, and industrial and public locations. Provided, that the term shall not include the rolling automated collection containers that are furnished by the city and private collection contractors to residents where automated collection service equipment is utilized.

*Bulk container service provider* shall mean the owner of the bulk container, provided that if a person other than the owner is contractually or otherwise obligated to service the container by transporting the container and/or its contents for disposition, then it shall mean the person providing such service.

*Central business district* means the area beginning at the intersection of the centerline of U.S. 59 and the centerline of I.H. 45; thence in a northeasterly and northerly direction along the centerline of I.H. 45 to its intersection with the centerline of I.H. 10; thence in an easterly direction along the centerline of I.H. 10 to its intersection with the centerline of U.S. 59; thence in a southwesterly direction along the centerline of U.S. 59 to its intersection with I.H. 45, the point of beginning.

*Commercial unit/service unit* shall mean any structure, public or private, located within the boundaries of the city that is adopted to occupancy for the transaction of business. It shall include but not be limited to shops, stores, shopping centers, public buildings, business offices, restaurants, hotels, motels, or such other places of business.

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***Cross references**—Duty of automobile wreckers to remove glass, debris, etc., from scene of accident, § 8-113; deposit of waste or garbage at airports, § 9-67; removal of trash deposited on streets, etc., after moving of buildings, § 10-73; clean up after demolition or removal of structures, § 10-356 et seq.; garbage and refuse in restaurants, etc., § 20-21, item 20; health generally, Ch. 21; litter at Lake Houston, § 23-6; garbage and refuse receptacles at piers at Lake Houston, § 23-37; solid waste handling and disposal in manufactured home parks, §§ 29-99, 29-113 et seq.; moving vehicles which throw or drop mud or clay on streets, § 40-22; vehicles transporting earth material on streets and alleys, § 40-168 et seq.; placing trash, etc., into gutters, storm sewers, etc., § 47-34; water meter boxes to be free from rubbish, § 47-21.

*Curbline* shall mean an imaginary line drawn along the edge of the pavement on either side of a public street; the curbline shall include the area three feet beyond said imaginary line on the nonpavement side of the line.

*Department* means the department of solid waste management.

*Director* means the director of the department of solid waste management or the director's duly authorized representative.

*Garbage* shall mean abandoned, discarded or unwanted putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food, including such materials from food markets, food storage facilities, food handling, and the sale of produce and other food products.

*Heavy or oversized trash* shall mean any rubbish or trash generated upon the premises of a residential unit which is of such size or weight that it cannot be containerized pursuant to section 39-62 of this Code and is not subject to collection pursuant to section 39-64 of this Code including, but not limited to, major appliances and tree limbs having a diameter of three inches or more.

*Houston Downtown Management District* means the district created by Subchapter A of Chapter 376 of the Texas Local Government Code.

*Public street* shall mean the entire width between property lines of any road, street, way, alley, bridge, or other similar thoroughfare, not privately owned or controlled, when any part thereof is open to the public for vehicular traffic, which is the responsibility of the city or other similar public agency to maintain, and over which the city has legislative jurisdiction under its police power.

*Residential unit / service unit* shall mean any structure within the city limits of the city devoted to single-family residential use. Residential unit shall include, but not be limited to, houses, duplexes, condominiums, townhouses, townhomes and patio homes. It shall also include apartments in a multi-unit, arrangement/configuration/construction of eight or fewer individual units. Residential unit shall not include apartments in excess of eight individual units in a multi-unit arrangement/configuration/construction, hotels, motels, boarding houses, or other similar rental units.

*Rubbish or trash* shall mean abandoned, discarded or unwanted nonputrescible solid waste materials consisting of both combustible and noncombustible waste materials; combustible rubbish or trash shall include feathers, paper, rags, cartons, boxes (flattened and tied) wood, excelsior, nonmetallic furniture, rubber, plastics, yard trimmings, shrubs, leaves, and similar materials; noncombustible rubbish or trash shall include glass, crockery, tin cans, aluminum cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit); provided that, rubbish or trash shall not include bulk quantities of building materials or major automotive components and the city shall not be required to pick up such materials.

*Solid waste* shall mean "municipal solid waste" as that term is defined in the Texas Solid Waste Disposal Act; waste resulting from the construction or demolition of any structure; and any other type of solid waste as defined in Section 325.5 of the Texas Department of Health, Municipal Solid Waste Management Regulations and any amendments thereto.

(Code 1968, § 20-1; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 1, 10-12-88; Ord. No. 89-1525, § 1, 10-25-89; Ord. No. 98-115, §§ 3—5, 2-11-98; Ord. No. 04-1060, § 1, 10-13-04)

### Sec. 39-2. Disturbing or removing contents of containers.

(a) It is unlawful for any person to intentionally, knowingly or recklessly handle, scavenge from, disturb, or remove any contents of any bin, bag, or other container that has been placed for collection of garbage or recyclable materials at the designated location for pickup by the department, or for pickup by any other public or private collection service.

(b) It is a defense to prosecution under this section that the accused is the person who placed or caused the bin, bag or container to be placed for collection or that the accused is an agent or employee of the city.
(Code 1968, § 20-2; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 1, 10-12-88; Ord. No. 95-406, § 1, 4-12-95; Ord. No. 02-504, § 2, 6-12-02)

**Sec. 39-3. Littering generally.**

With the exception of containers and items placed for pickup in conformity with the conditions for pick up and the times authorized pursuant to this chapter, no provision contained in this chapter shall be construed as constituting the permission of the city for the deposit of solid waste upon sidewalks, public streets, curbs or other public places of the city. Any deposit which does not conform in all respects with the provisions set forth in this chapter shall constitute an unlawful deposit of litter which shall be punishable as provided by law.
(Code 1968, § 20-3; Ord. No. 81-1524, § 1, 8-11-81)

**Sec. 39-4. Penalties; enforcement.**

(a) When in this chapter an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this chapter the doing of any act is required or the failure to do any act is declared to be unlawful and no specific penalty is provided therefor, the violation of any such provision shall be punishable upon first conviction by a fine of not less than $50.00 nor more than $2,000.00 and upon each subsequent conviction by a fine of not less than $250.00 nor more than $2,000.00. Each day that any violation continues shall be punishable as a separate offense. To the extent that any conduct in violation of this chapter also constitutes a violation of state penal laws, then it shall be punishable as provided in the applicable state law.

(b) The remedies in this chapter are not exclusive. The city attorney is authorized to file and prosecute any other action authorized at law or in equity to abate any unsanitary condition or unlawful disposal of waste.
(Ord. No. 95-406, § 2, 4-12-95)

**Sec. 39-5. Remedies cumulative.**

This chapter is cumulative of other laws. To the extent of inconsistency between the provisions of this chapter and any other ordinance of the city, the more restrictive shall apply.
(Ord. No. 95-406, § 2, 4-12-95)

**Secs. 39-6—39-15. Reserved.**

## ARTICLE II. DEPARTMENT OF SOLID WASTE MANAGEMENT*

**Sec. 39-16. Created.**

There is hereby created a department of the city to be designated the department of solid waste management.
(Ord. No. 93-514, § 62, 5-5-93)

**Sec. 39-17. Director.**

There is hereby created the office of the director of solid waste management. The director shall be the head of the department and shall be appointed by the mayor and confirmed by the city council.
(Ord. No. 93-514, § 62, 5-5-93)

**Sec. 39-18. Duties.**

The department and the employees assigned to the department shall:

(1) Supervise and be responsible for the collection, transportation and disposal of solid waste.

(2) Carry out the policies of the mayor and city council in the overall planning effort to develop a reliable and efficient method for solid waste disposal.

(3) Have such other duties and responsibilities as may be assigned by the mayor and city council.

(Ord. No. 93-514, § 62, 5-5-93)

**Secs. 39-19—39-29. Reserved.**

*Editor's note—Ord. No. 93-514, § 62, adopted May 5, 1993, amended the Code by adding a new Art. II, §§ 39-16—39-18, to read as herein set out.

## ARTICLE III. HOUSTON CLEAN CITY COMMISSION*

### Sec. 39-30. Created; purpose.

There is hereby established the Houston Clean City Commission to direct and oversee a comprehensive litter control program for the purpose of reducing and controlling to an acceptable level the concentration of litter in the city and to bring about a long-term improvement in the attitudes and trash handling habits of citizens.
(Code 1968, § 2-274.1; Ord. No. 77-2294, § 1, 11-19-77; Ord. No. 88-1643, § 2, 10-12-88)

### Sec. 39-31. Litter defined.

As used herein the term "litter" shall mean uncontrolled and improperly containerized refuse or trash on public or private property.
(Code 1968, § 2-275; Ord. No. 77-2294, § 1, 11-19-77; Ord. No. 88-1643, § 2, 10-12-88)

### Sec. 39-32. Composition; appointment of members.

The Houston Clean City Commission shall consist of not more than 50 members to be appointed by the mayor and confirmed by city council. Members shall be community leaders representing the civic, business, and governmental segments of the city. Nine members shall be designated as district members for positions lettered A through I and shall be residents of the city single-member council district which bears the letter corresponding to the position to which the district member is appointed. In the event a district member's place of residence is redistricted from one council district to another during the term of the member's office, that member shall not be disqualified but shall serve the remainder of the term and until a successor is appointed and confirmed. Up to 41 members may be designated as members-at-large for positions numbered 1 through 41, as required. One at-large-member shall be the director of the solid waste management department or his designee; one shall be the director of the health and human services department or his designee; and one shall be the director of the public works and engineering department or his designee. Among the remaining members-at-large, the mayor may appoint and city council may confirm up to 11 persons who do not reside within the city to serve as nonresident members-at-large.
(Code 1968, § 2-276; Ord. No. 77-2294, § 1, 11-19-77; Ord. No. 81-2241, § 1, 11-10-81; Ord. No. 83-1126, § 1, 7-19-83; Ord. No. 88-1643, § 2, 10-12-88; Ord. No. 90-635, § 92, 5-23-90; Ord. No. 93-514, § 63, 5-5-93; Ord. No. 96-325, § 1, 4-3-96; Ord. No. 96-1171, § 1, 11-6-96; Ord. No. 06-287, § 1, 3-29-06)

**Note**—See editor's note at Art. III.

### Sec. 39-33. Terms of members.

The members of the Houston Clean City Commission shall serve the following terms:

(1) The terms of office for members-at-large who hold even-numbered positions shall expire on February first of even-numbered years.

(2) The terms of office for members-at-large who hold odd-numbered positions shall expire on February first of odd-numbered years.

(3) The terms of office for district members shall expire on February first of the second year following the year of their appointment.

(4) Members whose terms have expired shall continue to serve until their successors are appointed and confirmed or their positions are eliminated due to a reduction in the size of the Commission.

(5) The terms of office for the three department directors shall coincide with the tenure of their appointments as director of the solid waste management depart-

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***Editor's note**—Section 3 of Ord. No. 2006-287 states that any person serving an unexpired term as a member of the Houston Clean City Commission (the "Commission") on the date of passage of Ord. No. 2006-287 [March 29, 2006] shall continue to serve on the Commission (as reconstituted by Ord. No. 2006-287) in the same position and for the same term to which the member was previously appointed. Any person serving on the Commission in a position for which the term has expired shall continue to serve on the Commission (as reconstituted by Ord. No. 2006-287) until the person's successor has been appointed and confirmed.

**Cross reference**—Boards, commissions, authorities, etc., generally, § 2-316 et seq.

ment, as director of the health and human services department and as director of the public works and engineering department, respectively.

(Code 1968, § 2-277; Ord. No. 77-2294, § 1, 11-19-77; Ord. No. 77-2560, § 1, 12-13-77; Ord. No. 81-2241, § 1, 11-10-81; Ord. No. 88-1643, § 2, 10-12-88; Ord. No. 90-635, § 93, 5-23-90; Ord. No. 93-514, § 64, 5-5-93; Ord. No. 96-325, § 2, 4-3-96; Ord. No. 06-287, § 2, 3-29-06)

**Note**—See editor's note at Art. III.

### Sec. 39-34. Compensation.

Members of the Houston Clean City Commission shall serve without compensation from the city or any firm, trust, donation or legacy to or on behalf of the city; provided, however, that a member of the commission, or the firm, company or corporation with whom the commissioner is associated, shall not be precluded from receiving compensation from the city under any contract for services rendered which have no relation to the commissioner's duties as a commissioner of the Houston Clean City Commission and, provided further the commission may hire or secure the services of a full-time program director to administer the clean city program.

(Code 1968, § 2-278; Ord. No. 77-2294, § 1, 11-9-77)

**Sec. 39-35. Chairman.**

The Houston Clean City Commission shall organize by electing one of its members as chairman; such chairman shall hold office for one year or until his successor has been elected and qualified.
(Code 1968, § 2-279; Ord. No. 77-2294, § 1, 11-9-77)

**Sec. 39-36. Adoption of administrative procedures.**

The Houston Clean City Commission may adopt such administrative procedures as are necessary to accomplish the purposes set out in this article.
(Code 1968, § 2-280; Ord. No. 77-2294, § 1, 11-9-77)

**Sec. 39-37. Reports.**

The Houston Clean City Commission shall, each quarter, during the months of January, April, July and October submit a written report to the mayor and city council summarizing the status of the clean city program.
(Code 1968, § 2-281; Ord. No. 77-2294, § 1, 11-9-77)

**Sec. 39-38. Consultation with city officers and departments.**

The director and other city officers and staffs of city departments may consult with and advise the Houston Clean City Commission from time to time on matters coming within the scope of this article and the commission may consult with and advise such city officers and personnel of such departments.
(Code 1968, § 2-282; Ord. No. 77-2294, § 1, 11-9-77)

**Sec. 39-39. Solicitation of funds.**

The Houston Clean City Commission shall have the authority to solicit funds and donations to carry out the purposes for which it is established.
(Code 1968, § 2-283; Ord. No. 77-2294, § 1, 11-9-77)

**Secs. 39-40—39-47. Reserved.**

## ARTICLE IV. COLLECTION SERVICES

### DIVISION 1. GENERALLY

**Sec. 39-48. Limited to residential units within city.**

Except as otherwise provided in this article, the city shall provide garbage and rubbish collection service only to residential units. This section shall not prohibit separate contracts approved by the city council for additional service outside the terms of this article. The city shall provide garbage and rubbish collection service only within the city limits.
(Code 1968, § 20-10; Ord. No. 81-1524, § 1, 8-11-81)

**Sec. 39-49. Collection from nonresidential units.**

(a) Garbage or rubbish shall be collected by the city from nonresidential units only if such nonresidential units are qualified for such service under the terms of this section and comply with the provisions hereof.

(b) Any nonresidential unit seeking city garbage and rubbish collection service, or extra capacity collection services as defined in section 39-62 of this Code, shall apply for same in writing to the director on forms provided by the director. The director shall then grant such service, provided that the director finds in writing that such nonresidential unit meets all of the following requirements:

(1) The cost to the city of providing service to such nonresidential unit is not unduly prohibitive.

(2) The nonresidential unit is located immediately adjacent to existing established residential routes which may be easily extended to provide the nonresidential unit with service.

(3) The city has the capability in terms of personnel and equipment to provide the nonresidential unit with service.

(4) Providing the nonresidential unit with the service will best serve the public convenience and necessity of the city.

(5) The director shall be given written permission by the owner, lessee or authorized agent of any publicly or privately owned property to enter the premises and make inspections to determine whether or not refuse is being properly stored, collected, removed and disposed of as required by the provisions of this chapter. If it is found that this chapter is being violated, appropriate and timely action shall be taken to ensure full compliance with same.

(6) The nonresidential unit is not a medically-related facility, such as, but not limited to, hospitals, medical centers, health clinics, dental labs, medical labs, mortuaries and veterinary hospitals.

(c) Any nonresidential unit approved for city garbage and trash collection service, or the extra capacity collection services described in section 39-62 of this Code, shall comply with all other appropriate terms and provisions of this chapter and, where appropriate, pay extra capacity collection fees, as if the nonresidential unit were a residential unit.

(d) If the route on which the approved nonresidential unit is situated has conventional collection service, then the city collectors will pick up the contents of no more than three disposable (one-way) containers each having a capacity not exceeding 35 gallons of garbage and rubbish complying with this chapter from the nonresidential unit on each day that service is provided on the route. If the route on which the approved nonresidential unit is situated has automated collection service, then the city collectors will pick up the contents of not more than three rolling automated collection containers, each having a capacity of 90 gallons, on each day that service is provided on the route, and any disposable (one-way) containers to which an occasional extra capacity collection tag has been affixed.

(e) Any nonresidential unit denied garbage and rubbish collection, or extra capacity collection service, by the director under this section may appeal the director's decision to city council pursuant to Rule 12 of the Council Rules of Procedure by filing notice of appeal with the city secretary, with a copy to the director, within 30 days of receipt of the director's written notice of denial of service.

(f) There is hereby imposed a fee of $13.50 per calendar month or any portion thereof for garbage and rubbish collection service under this section. The fees for each additional rolling automated collection container or occasional extra collection tag requested shall be those set forth in section 39-62(c) of this Code and shall be paid annually in advance in accordance with billing procedures established by the director; provided that upon presentation of a city water account number and advance payment of the first monthly extra capacity service fee for each additional container requested, a water customer of the city desiring extra capacity collection service may be billed monthly pursuant to section 39-66 of this Code. Field collection personnel are not authorized to receive payment of any fee. No extra capacity collection service shall be rendered to any person who has failed to make payment in advance.
(Code 1968, § 20-11; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 3, 10-12-88; Ord. No. 91-1272, § 1, 8-28-91; Ord. No. 98-115, § 6, 2-11-98; Ord. No. 02-525, § 2, 6-19-02)

**Sec. 39-50. Materials to be picked up by department.**

(a) The director shall promulgate rules that establish the content of items that will be picked up by department personnel. For regular collection services, the items will be limited to those that may be accepted at a type I municipal solid waste site in accordance with applicable state and federal laws and regulations and the terms of the city's contracts with the site operators. For heavy or oversize trash collection services, items will be limited to those that may be accepted at a type IV municipal solid waste site in accordance with applicable state and federal laws and regulations and the terms of the city's contracts with the site operators. For recyclables, the items will be based upon applicable laws and regulations and the city's contracts with purchasers of items to be recycled. The director may impose further restrictions upon items or quantities of items to be

collected based upon the safety of department personnel and the capability and capacity of departmental collection equipment. The director shall similarly establish rules for neighborhood depository and adopt-a-container services.

(b) Copies of the rules shall be maintained in the director's office and the city secretary's office. Additionally, copies shall be posted at neighborhood depository sites and adopt-a-container sites and made available to residents upon request.

(c) Department personnel shall not accept any materials that are not authorized for collection under the rules. To the extent that any items placed for collection are mixed so as to include both authorized and unauthorized items, department personnel shall not be obliged to sort the materials and may refuse the entire lot.

(d) Except as provided in section 39-49 of this Code, the collection services shall be limited to the collection and acceptance of waste generated by residential users in connection with activities that are incidental to their use of their property for residential purposes and waste generated upon a vacant residential lot that is generated in connection with the maintenance of that vacant residential lot. The department shall not collect or accept other waste. It shall be unlawful for any person to place items for collection by the department at the curbline of any property except as authorized herein.

(e) The department shall not collect or accept bulky items, such as construction debris or debris from the trimming or removal of trees, unless generated by work performed by the residents of the property upon which the waste was generated, rather than by contractors retained to do the work. It is the duty of contractors who are performing work at residential units to which the department renders service to remove and lawfully dispose of construction debris, tree waste and similar bulky items or to cause the materials to be removed by private collectors, rather than to leave the materials upon the property for collection by department personnel.
(Ord. No. 95-406, § 3, 4-12-95)

**Secs. 39-51—39-60. Reserved.**

## DIVISION 2. CONTAINERS, ETC.

### Sec. 39-61. Defective or overloaded containers.

No person shall use or cause to be used or place or cause to be placed for collection by city or private collectors any garbage or rubbish container which:

(1) Is not of such construction as to have a lid or other closure means which will effectively prevent the spillage or airborne loss of its contents and the entry of vectors or elements of nature; or

(2) It is overloaded so that the lid will not fit securely thereon, or if not equipped with a lid is not securely bound or fastened at the open end; or

(3) Is deteriorated to the extent of endangering collectors or to the extent that the lid will not fit securely or the contents are otherwise not effectively contained therein.

(Code 1968, § 20-15; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 4, 10-12-88)

### Sec. 39-62. General specifications.

(a) Based upon the availability of service equipment and the economies of its use, the director shall establish service routes and designate which areas of the city shall receive conventional collection service and which shall receive automated collection service.

(b) The following specifications and service conditions shall apply on routes receiving conventional collection service by city collectors:

(1) The combined weight of the garbage, rubbish and container shall not exceed 50 pounds.

(2) Except as provided in item (4) of this subsection, garbage and rubbish shall be placed in containers of not more than 35 gallons capacity. Pet feces must be wrapped separately and securely to avoid spillage, and placed so that its odor is not offensive to collection crews or the general public.

(3) Disposable (one-way) containers made of plastic film or of any other synthetic or

natural organic material which has sufficient strength and quality to securely contain a capacity of not more than 35 gallons of garbage or rubbish shall be required for residential service.

(4) An unlimited number of containers will be serviced by the city on a schedule designated by the director and based upon the capability and capacity of available equipment, the safety of the city's collectors and the capabilities of the disposal sites used by the city.

(5) Yard waste need not be separated and may be combined with other materials placed for collection in the same disposable container.

(c) The following specifications and service conditions shall apply on routes receiving automated collection service by city collectors:

(1) Each residential unit shall be required to separate yard waste from other items to be placed for collection.

(2) The department shall loan, without charge, one rolling automated collection container having a capacity of 90 gallons to the resident(s) of each residential unit. Upon request, the resident(s) of a residential unit shall be provided up to two additional 90 gallon rolling automated collection containers upon advance payment by money order or cashiers check of an annual extra capacity service fee of $90.00 per container. A city water customer who desires to contract for billing of the extra capacity collection fee through the customer's city water account may provide the director the customer's city water account number and advance payment of the first monthly extra capacity service fee for each additional collection container requested. Thereafter, a monthly charge for each additional container will be billed through the customer's water account. Additional automated collection containers shall be provided to residents of a residential unit of eight or fewer individual units upon advance payment by the resident(s) or owner(s) of the unit(s) of the annual extra capacity service fee by cashiers check or money order or by providing the director the owner(s) or resident(s) city water account number(s) and advance payment of the first monthly extra capacity service fee for each additional container requested. A $7.50 monthly charge, payable in advance, shall be paid for each additional automated collection container requested. Each additional automated collection container shall bear an extra capacity sticker containing serial or other identification numbers and shall be issued by the department for a minimum service period of 12 months.

(3) The residents of a residential unit may purchase tags for occasional extra capacity collection upon request. Such tags shall be placed on disposable (one-way) containers meeting the requirements of section 39-62(b)(1)—(3) for collection. A fee of $1.00 per tag, with a minimum purchase of five tags per year for each residential unit, shall be paid to the department or its agent in advance by money order or cashiers check. The director is authorized to impose an additional service fee not to exceed $3.00 per purchase for occasional extra capacity tags processed by the department.

(4) Collection without charge of materials other than yard waste shall be limited to one rolling automated collection container per residential unit per collection day and any additional rolling automated collection or other disposable (one-way) containers for which the extra capacity service fees set forth in items (2) and (3) of this subsection have been paid.

(5) The rolling automated collection container(s) provided by the city and any disposable (one-way) containers bearing extra capacity tags shall be placed for collection in a location along the curb that is accessible to the mechanized service vehicle's lift equipment. Containers bearing extra capacity tags shall be placed so that the tags are clearly visible from the street.

(6) Yard waste shall be separately collected and must be prepared for collection in one-way containers or bundles as described in section 39-64 of this Code.

(d) Operators of private collection services may establish different specifications as to the size, weight and construction of containers which they will pick up, provided that the specifications conform to section 39-61 of this Code.

(e) For purposes of conducting pilot programs to evaluate new solid waste disposal and recycling technologies, the director may establish different specifications as to the size, weight, and construction of containers that the city will pick up in certain areas of the city, provided that the specifications conform to section 39-61 of this Code.

(f) In connection with automated collection service and pilot programs, the department may loan rolling automated collection containers, recycling bins or related equipment to residents for their use in placing rubbish, trash and recyclables for collection by the department. The equipment shall remain the property of the city, and it shall be the responsibility of each person who receives that equipment to exercise reasonable care with respect to the maintenance and use of the equipment. Broken, damaged, lost or stolen rolling automated collection containers shall be repaired or replaced by the department in accordance with rules established by the director, which shall be established and promulgated in the same manner provided by section 39-50 of this Code.

(g) It shall also be the duty of each person who receives automated collection service equipment to store the equipment in a secure place where it will not be visible to a person standing in the right-of-way of any public street adjacent to the property where the equipment is used, except while placed for collection in accordance with this chapter. It is a defense to prosecution under this subsection that the person's property is so configured that no location exists for storage of the equipment in a place where it is not visible to a person standing in the right-of-way of a public street adjacent to the property.
(Code 1968, § 20-16; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 4, 10-12-88; Ord. No. 93-872, § 1, 7-14-93; Ord. No. 95-406, §§ 4, 5, 4-12-95; Ord. No. 98-115, § 7, 2-11-98; Ord. No. 02-525, § 3, 6-19-02)

### Sec. 39-63. Nonconforming containers.

City collectors shall not be obligated to service any garbage or rubbish container which does not contain garbage or rubbish as hereinabove defined or which is not in conformity with the requirements for placement as set forth in sections 39-61 and 39-62 of this Code.
(Code 1968, § 20-17; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 4, 10-12-88; Ord. No. 98-115, § 7, 2-11-98)

### Sec. 39-64. Preparation of yard waste for collection.

City collectors will pick up yard waste in conjunction with collection service if the waste is prepared and placed pursuant to this section. Any person desiring to place yard waste for collection by the city shall cause the same to be placed in one-way disposable containers not exceeding 35 gallon capacity or 50 pounds total wight, provided that tree trimmings having a diameter of less than three inches and related materials may be securely tied in bundles not heavier than 50 pounds and not more than four feet in length nor 18 inches in diameter. No person shall place more than four bundles of tree trimmings for removal on any one day of collection. Yard waste must be separated from other waste placed for collection on routes where automated collection service is provided by the city.
(Code 1968, § 20-18; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 4, 10-12-88; Ord. No. 98-115, § 7, 2-11-98)

### Sec. 39-65. Placement for regular collection, etc.

(a) Except as provided in subsection (b), collection services shall be limited to items placed at the curbline of a public street in front of or adjacent to the property upon which the waste was generated. All items shall be contained or bundled as provided in this chapter. Regular collection services shall be provided on the basis of a schedule established and promulgated by the

director, which shall normally include one pickup per week on routes receiving automated collection service and two pickups per week on routes receiving conventional collection service. Service shall also be limited to materials authorized under rules established by the director, as provided in section 39-50 of this Code.

(b) On routes served by conventional collection service, the director shall, in lieu of collection at the curbline of a public street, authorize collection services from the curbline of an alley if a majority of the residents having property abutting the alley prefer collection from the alley and if the alley meets each of the following criteria with respect to the portions of the alley that will be used by department equipment:

(1) The alley must have a paved surface at least 16 feet in width;

(2) The alley must have no overhang or projection lower than a height of 13 feet six inches above the pavement;

(3) The alley must have a minimum turning radius of 35 feet at each place where the alley intersects a public street; and

(4) The alley must have no obstruction (parked vehicle, fixed object, or whatever) that would prevent, hinder or impede the free passage of department equipment for collection service.

The director shall not be obliged to offer alley pickup service on routes served by automated collection service.

(c) It shall be unlawful to place or to allow to remain any materials at the curbline for regular city collection service by the department prior to 6:00 p.m. of the day preceding a day designated by the director for collection service at that location. Collection services shall commence at 7:00 a.m. on the day designated by the director. It shall be unlawful to place or allow to remain any materials at the curbline on a designated collection day after department collection service personnel have passed the site for that day on their route, and the department shall not have any obligation to return to collect items not present at the curb when the department vehicle serviced the site. It shall be unlawful to allow collection containers or recycling containers to remain at the curbline, where the use of these containers is authorized, following 10:00 p.m. of the day upon which the waste or recyclables are collected by the department.
(Code 1968, § 20-19; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 4, 10-12-88; Ord. No. 95-406, § 6, 4-12-95; Ord. No. 98-115, § 7, 2-11-98)

**Sec. 39-66. Billing.**

Billing of extra capacity collection services fees shall be made in advance to the water customers of the city who have requested extra capacity solid waste collection services concurrently with the monthly or bimonthly water bills issued by the city to such customers. Persons requesting extra capacity solid waste collection services who are not water customers of the city shall be billed for advance payment of the appropriate extra capacity collection fees for the services requested.
(Ord. No. 02-525, § 4, 6-19-02)

**Sec. 39-67. Accounting.**

(a) All extra capacity solid waste collection fees collected shall be deposited in the city's general fund and recorded in a separate revenue code. All such amounts, together with all interest earned thereon, if any, shall be used solely for the purposes set forth in subsection (b).

(b) The extra capacity solid waste collection fees collected pursuant to this article shall be used for the sole benefit of the city's solid waste management system.

(c) The department shall establish adequate financial and accounting controls to ensure that extra capacity solid waste collection fees are utilized solely for the purposes authorized. The records of the fund or account into which extra capacity solid waste collection fees are deposited shall be open for public inspection, and copies may be purchased during ordinary business hours.
(Ord. No. 02-525, § 4, 6-19-02)

**Secs. 39-68—39-76. Reserved.**

## DIVISION 3. SPECIAL CITY COLLECTION SERVICES

### Sec. 39-77. Heavy/oversize trash collection.

(a) Heavy and oversize trash shall be collected on the basis of a schedule established and promulgated by the director. Service shall be limited to residential units, and the service provided under section 39-49 of this Code to nonresidential units shall not include collection of heavy or oversize trash.

(b) Service shall be limited to materials authorized under rules established by the director as provided in section 39-50 of this Code, and no more than a total of two department truck loads or forty cubic yards of material, whichever is less, shall be collected from any one residential unit on any collection day.

(c) Service shall be limited to items that are placed at the curbline in an unobstructed location, such that automated department equipment may reach and pick up the items. Without limitation, service will not be provided if the items are obstructed by fire hydrants, trees or vegetation, parked cars or other objects that prevent the automated function of the department's equipment.

(d) It shall be unlawful to place or to allow to remain any materials at the curbline for heavy or oversize collection service prior to 6:00 p.m. of the Friday next preceding a day upon which the collection service for the site is scheduled by the director.

(e) When any property is found in violation of subsection (d) of this section, such fact shall be prima facie evidence that the current record owner or occupant of the property committed such offense. It is a defense to prosecution under subsection (d) of this section that the property owner or occupant can name and identify the person who committed the offense.

(f) All persons have an affirmative duty to comply with all provisions of this section, and it shall not be a defense to prosecution of such persons that they were acting without a culpable mental state.

(Code 1968, § 20-25; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 4, 10-12-88; Ord. No. 95-406, § 7, 4-12-95; Ord. No. 04-1076, §§ 1, 2, 10-20-04)

### Sec. 39-78. Collection of dead animals.

(a) Small dead animals, such as dogs, cats, or other of similar size, will be picked up by the city as a special service at no charge; provided, that such special pickup must be requested by contacting the department between 8:00 a.m. and 5:00 p.m.

(b) Large dead animals, such as horses and cattle, or others of similar size, will be picked up by the city as a special service for a fee of $25.00; provided that such special pickup must be requested by contacting the department between 8:00 a.m. and 5:00 p.m. The owner of the animal shall pay the aforesaid fee to the department in such manner as the director shall specify; provided, that the director shall not impose such fee in the case of animals of unknown ownership. In case of animals of unknown ownership, the director may require an affidavit or a signed statement to that effect from the land owner or resident.

(c) It shall be unlawful for any person to place dead animals in any garbage, rubbish or trash container or receptacle. Disposal thereof may require special equipment, routing and handling which cannot be provided as a part of regular collection services.

(d) The city shall not pick up dead animals from those locations engaged in the business of treating, handling, or disposing of animals.

(e) The city shall be responsible for the pickup of dead animals from city property and rights-of-way only.

(Code 1968, § 20-26; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 5, 10-12-88)

### Sec. 39-79. Collection of decomposed organic products.

In cooperation with the director of the health and human services department or his designee, the city shall assist where appropriate in situations involving decomposed organic products on private property deemed detrimental to the health and safety of the general public.

(Ord. No. 88-1643, § 6, 10-12-88)

**Sec. 39-80. Pickup for handicapped.**

The department shall provide solid waste services to handicapped citizens by entering onto the private property of such citizens to collect solid waste generated by such citizens under the following conditions:

(1) The handicapped citizen shall request such service, in writing;

(2) The handicap which is the basis of such request must be a physical handicap which prevents the citizen from placing solid waste at the curbside for collection;

(3) The handicapped citizen shall present with the request for service, documentation from an attending physician confirming the handicap;

(4) The handicapped citizen shall be the sole resident at the service address at which service is requested, unless all other residents at the service address qualify for service under the provisions of this section; and

(5) No more than two containers meeting the specifications of this article shall be collected on any collection day.

(Ord. No. 88-1643, § 6, 10-12-88)

**Sec. 39-81. Adopt-a-container program.**

In addition to heavy or oversized trash services, the city may provide bulk containers for use by residents of the city. This service is intended to assist non-profit community organizations with weekend neighborhood cleanup campaigns. The bulk containers will be provided on a first-come-first-served basis, depending upon the availability of equipment. The containers will be delivered on Friday and collected on Monday. Only non-profit and civic organizations are eligible to sponsor bulk containers. Requests to the director for bulk containers must comply with the following conditions:

(1) The request must be received in writing not less than 21 days prior to the anticipated cleanup date; requests must include a reschedule date in the case of inclement weather;

(2) The request must indicate a specific location for the container to be placed by the city;

(3) The request must specifically indicate which community group is requesting the container; and

(4) The request must specifically name a person to be responsible for monitoring the container, and that person must sign the written request.

(Ord. No. 95-406, § 8, 4-12-95)

**Sec. 39-82. Neighborhood depositories.**

In addition to the residential heavy or oversize trash collection service, the department may operate solid waste depository sites at which heavy or oversize trash may be deposited. No person may utilize depository sites more than four times per month. The following rules and conditions shall apply to neighborhood depositories:

(1) Each user must provide proof of residency in a form acceptable to the director, or must show a current city property tax receipt for use of a facility as a nonresident;

(2) Only heavy trash and rubbish will be accepted in accordance with rules established by the director under section 39-50 of this Code;

(3) Salvaging or scavenging items deposited at a site or from vehicles that are waiting to make deposits at a site is unlawful;

(4) Trespassing on a site is prohibited, and the director shall cause each site to be posted with appropriate no trespassing signage. Only persons who are depositing waste at the site and department employees may be present at a site.

(Ord. No. 95-406, § 8, 4-12-95)

**Secs. 39-83—39-94. Reserved.**

## ARTICLE V. LITTER CONTROL*

### Sec. 39-95. Enforcement of state solid waste laws and regulations.

(a) In cooperation with the legal department, the neighborhood protection official and any other city departments having code enforcement responsibilities relating to solid waste, sanitation or litter control, the director shall conduct an effective program of the enforcement of state and local laws relating to solid waste, sanitation and litter control including, but not limited to, enforcement of the Texas Litter Abatement Act (Texas Health and Safety Code, ch. 365).

(b) The health officer may report the failure of any person to comply with the said act or regulations in writing to the legal department for the institution by the city of suits for the civil penalties and injunction remedies provided in the solid waste disposal act; provided, that the health officer may, but shall not be obligated to, attempt to secure voluntary compliance prior to referral of the complaint to the legal department. Prior to the institution of suit, the legal department shall refer the health officer's request to the city council for authorization to file suit. Such authorization may be granted by motion of the city council. Further authorization shall not be required for taking of any action which the city attorney deems necessary or desirable in connection with the prosecution of the suit or the enforcement of any judgment obtained therefrom.

(c) Upon completion of appropriate training, employees designated by the fire department, health and human services department, mayor's citizens' assistance office, police department, public works and engineering department, and solid waste management department are authorized to issue citations charging the violation of any of the provisions of this chapter. Duly trained and designated employees of the solid waste management department are also authorized to issue citations charging the violation of any provisions in this Code relating to solid waste, including but not limited to garbage, refuse, and dumpsters.
(Code 1968, § 20-30; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 7, 10-12-88; Ord. No. 95-406, § 9, 4-12-95; Ord. No. 98-613, § 63, 8-5-98; Ord. No. 04-1076, § 3, 10-20-04; Ord. No. 05-64, § 1, 1-19-05)

### Sec. 39-96. Information required on solid waste transport vehicles.

(a) It shall be unlawful for any person to operate or cause to be operated any vehicle whose major use (as defined by the director) is the transporting of solid waste upon any public street within the city unless the name and telephone number of the hauler is posted and maintained thereupon in the manner provided in this section. The word "hauler" as used in this section shall mean the owner of the vehicle, provided that if the vehicle is operated pursuant to a lease or other arrangement whereby the owner is not entitled to the use of the vehicle, then "hauler" shall mean the person entitled to the use of the vehicle.

(b) It is an affirmation defense to prosecution under this section that the cargo transported by such person:

(1) Contains two cubic yards of solid waste or less; or

(2) Originated outside the city and is destined for transport outside the city, provided that no solid waste is loaded or unloaded within the city.

(c) It is also an affirmative defense to prosecution under this section that:

(1) The vehicles is owned by a political subdivision and is marked in compliance with the law applicable to vehicles owned by such subdivision; or

(2) The vehicle is required to be marked or posted in a manner inconsistent herewith by applicable state or federal laws, rules or regulations and is marked or posted in compliance therewith.

*Cross references—Duty of automobile wrecker drivers to remove glass, debris, etc., from scene of accident, § 8-213; deposit of garbage or waste at airports, § 9-67; removal of trash on streets after moving of buildings, § 10-73; clean up after demolition or removal of structures, § 10-356 et seq.; litter in buses, § 28-30(a)(2).

(d) The name and telephone number required to be posted by this section shall be printed on a vertical or nearly vertical surface upon both sides, and when the configuration of the vehicle allows, in the rear, in proportional and proportionally spaced block letters and numbers not less than three inches in height having a brush stroke not less than three-eighths inch in width, shall be of a solid color which contrasts with the background color upon which they are printed and shall be maintained in a clean and unobstructed manner at all times. Abbreviated names may be used, provided that the hauler notifies the health and human services and the solid waste management department directors of the abbreviation. In the event that the vehicle is designed in such a manner that the solid waste is transported within a trailer or off-site service type of receptacle which is towed or carried by the vehicle, then the letters and numbers required on the rear of the vehicle may be printed upon such trailer or receptacle in lieu of the vehicle itself. The requirement may be met through the use of decals.
(Code 1968, § 20-31; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 7, 10-12-88; Ord. No. 90-635, § 94, 5-23-90; Ord. No. 93-514, § 65, 5-5-93)

**Sec. 39-97. Information required on bulk containers.**

(a) It shall be unlawful for any bulk container service provider to use or to provide any bulk container for the use of any other person within the city unless the name and telephone number of the bulk container service provider is posted and maintained thereon in the manner provided in this section.

(b) The name and telephone number required to be posted by this section shall be printed on a vertical or nearly vertical surface upon the bulk container in proportional and proportionally spaced block letters and numbers not less than two and one-fourth inches in height having a brush stroke of not less than three-eighths inch in width, shall be of a solid color which contrasts with the background color upon which they are printed and shall be maintained in a clean condition at all times. Abbreviated names may be used, provided that the bulk container service provider notifies the health and human services and the solid waste management department directors of the abbreviation. If the bulk container is designed for on-premise emptying, then the name and telephone number shall be printed on the side thereof which is intended for access by the truck or other mechanical device which empties the bulk container.
(Code 1968, § 20-32; Ord. No. 81-1524, § 1, 8-11-81; Ord. No. 88-1643, § 7, 10-12-88; Ord. No. 90-635, § 95, 5-23-90; Ord. No. 93-514, § 66, 5-5-93)

**Sec. 39-98. Duty of property owners for collection.**

Property owners shall ensure that solid waste collection services are provided on a regularly scheduled basis to collect all solid waste generated or accumulated on their property. Such schedule will be established to ensure that solid waste is collected at least one time per week or more frequently if required to prevent the creation of any hazard to public health or public nuisance."
(Ord. No. 88-1643, § 8, 10-12-88; Ord. No. 98-115, § 8, 2-11-98)

**Sec. 39-99. Placement for collection in the central business district.**

It shall be unlawful for any owner, manager, tenant, or occupant of any business establishment or building in the central business district, or the agent or employee of such person, to fail to comply with the following minimum standards relating to the placement and collection of garbage or rubbish:

(1) *Types of receptacles.* Suitable containers must be used for private service commercial collection of municipal solid waste. Solid waste generated or accumulated in any business establishment or building shall be contained in a bulk container or one of the following trash receptacles:

a. *A garbage or rubbish container.* A garbage or rubbish container shall meet the requirements of section 39-61 of this Code.

b. *Plastic bags.* Plastic bags shall have a minimum film thickness of two mils.

(2) *Cardboard boxes.* When cardboard boxes alone are placed for collection, they shall be broken down, flattened, and tied in bundles not exceeding four feet.

(3) *Collection.* Collection of garbage or rubbish is permitted at all hours except between 7:00 a.m. and 2:00 p.m.

(4) *Placement.* Trash receptacles and cardboard boxes shall not be placed out for collection earlier than 2:00 p.m. each day. Trash receptacles and cardboard boxes



[The next page is 2667]

shall be placed out for collection at the curbline of a public street in front of or adjacent to the premises and in such a manner as to leave a five foot minimum width corridor for pedestrian passage. Trash receptacles shall be removed immediately after the solid waste material has been collected, and no trash receptacle or cardboard box may be placed out for collection for more than four hours. All trash receptacles and cardboard boxes shall be removed from an improved public street right-of-way, including the street, sidewalk or other public right-of-way property adjacent thereto, no later than 7:00 a.m. Trash receptacles and cardboard boxes may not be placed adjacent to or in a parking meter zone or a truck loading zone, or within five feet of any crosswalk.

(5) *City-owned trash receptacles.* Solid waste generated or accumulated in any business establishment or building shall not be placed in city-owned trash receptacles used to collect litter.

(6) *Exception.* This section does not apply to sidewalk litter collected by the city or the Houston Downtown Management District.

(Ord. No. 04-1060, § 2, 10-13-04)

**Secs. 39-100—39-110. Reserved.**

## ARTICLE VI. COMMERCIAL SOLID WASTE OPERATORS

**Sec. 39-111. Definitions.**

As used in this article, the following terms shall have the meanings ascribed in this article, unless the context of their usage clearly indicates another meaning:

*Commercial properties* means land used for commercial and industrial purposes, excluding apartment and condominium complexes and land used for single-family residential dwelling purposes as defined in section 42-1 of this Code.

*Commercial solid waste operator* means any person who collects, hauls, or transports solid waste or industrial waste for a fee by use of any means, including, but not limited to, front-load dumpster trucks, roll-off trucks, or rear-load garbage trucks.

*Director* means the director or the director's designee of the city's department of finance and administration or its successor department.

*Industrial waste* has the meaning ascribed to the term "industrial solid waste" by Chapter 361 of the Texas Health and Safety Code, as may be amended from time to time.

(Ord. No. 02-526, § 1, 6-19-02; Ord. No. 02-1166, § 1, 12-18-02)

**Sec. 39-112. Scope.**

The provisions of this article shall not apply to any municipally-owned commercial solid waste operator or to any commercial solid waste operator for services performed under a contract between the operator and the city.

(Ord. No. 02-526, § 1, 6-19-02)

**Sec. 39-113. Franchise required.**

It shall be unlawful for any commercial solid waste operator to collect, haul or transport solid waste or industrial waste from commercial properties located within the city without first having obtained a franchise for that purpose upon the consent of the city council.

(Ord. No. 02-526, § 1, 6-19-02)

**Sec. 39-114. Franchise administration.**

Any franchise granted pursuant to this article shall be administered by the director, upon such application and rules as the director may establish, including standards for performance.

(Ord. No. 02-526, § 1, 6-19-02)

**Sec. 39-115. Granting of franchise.**

(a) After receiving a complete application, the director may make such investigation as he considers necessary to determine whether the applicant meets the requirements of law and of this article.

(b) The director may require the applicant to furnish additional information to assist the director in his determination.

(c) After the director determines whether the applicant meets the requirements of the law and this article the director or his duly authorized representative shall recommend either (1) that the city council deny the franchise agreement or (2) that the city council approve the franchise agreement.

(d) Each franchise proposed by the director pursuant to this article shall incorporate the terms of this article and shall address at a minimum the following terms and conditions, which shall be as consistent as practicable between franchises:

(1) Definition of gross revenues;

(2) Statement that the franchise is not exclusive;

(3) Amount and time of payment to the city, including right of the city to inspect the franchisee's records to determine compliance and provision for a late penalty;

(4) Requirements for record keeping;

(5) Requirements for release, indemnification and insurance;

(6) Provisions for default and termination, including the opportunity to cure;

(7) Payment of liquidated damages to the city;

(8) Prohibition against assignment of franchise without consent of the city; and

(9) Such other miscellaneous terms and conditions that the director determines to be necessary, appropriate and consistent with terms and conditions in other city franchises.

(Ord. No. 02-526, § 1, 6-19-02; Ord. No. 02-1166, § 2, 12-18-02)

**Sec. 39-116. Franchise fee.**

Any franchise granted pursuant to this article shall provide that the commercial solid waste operator shall be liable for an annual franchise fee equal to four percent of the operator's gross revenues from the collection, hauling, or transporting of solid waste or industrial waste within the scope of this article, payable quarterly, within 45 days of the close of the calendar quarter for which the quarterly payment is calculated. The initial quarterly payment shall cover the period beginning as of the effective date of the franchise. Any necessary prorations shall be allowed. The operator shall reflect the franchise fee as a separate line item on the invoice from the operator to the customer.

(Ord. No. 02-526, § 1, 6-19-02; Ord. No. 02-1166, § 3, 12-18-02)

**Sec. 39-117. Identification required.**

(a) It shall be unlawful for any person to operate, or to cause or allow to be operated, any vehicle while engaged in any activity for which a franchise is required under this article unless there is conspicuously displayed upon both sides of the vehicle a decal at least five inches by six inches in size issued by the director.

(b) In any prosecution under this article it shall be presumed that any vehicle not in display of the decals required in this section is not in compliance with the requirements of this article.

(Ord. No. 02-1166, § 4, 12-18-02)

**Sec. 39-118. Penalty.**

(a) Without limitation of other remedies available to the city, persons operating in violation of the terms of this article, shall be liable to the city for all fees authorized by this article dating to the inception of such violation.

(b) Any person who violates any provision of this article shall be guilty of an offense and upon conviction thereof, shall be punished by a fine of not less than $150.00 nor more than $500.00 for each violation.

(c) A citation issued under section 39-117(a) shall be dismissed upon proof that the required decals were affixed to the cited vehicle within five business days of the issuance of the citation.

(Ord. No. 02-1166, §§ 4, 5, 12-18-02)

[The next page is 2699]