

## Chapter 8.32

### SOLID WASTES

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### 8.32.010 Definitions.

For the purposes of this chapter, the following words shall have the following meanings:

**Bottom ash** shall mean all residue that falls from the burn chamber of a device used for incineration or to burn combustible or flammable material for heat, steam, or electricity.

**Building rubbish** shall mean all discarded or unwanted material or waste material from the construction, remodeling, and repair operations on houses, commercial buildings, and other structures including, but not limited to, excavated earth, stones, brick, plaster, lumber, concrete, and waste parts occasioned by installations and repairs, but excluding garbage, asbestos products, asphaltic products and other hazardous wastes or hazardous materials as defined in this and other chapters of the Lincoln Municipal Code.

**Commercial waste** shall mean waste produced by retail and wholesale businesses, services, entertainment establishments, and by hotels and restaurants.

**Demolition debris** shall mean all combustible and noncombustible waste material resulting from the demolition of structures, roadways, or other paved surfaces, but excluding garbage, asbestos products, asphaltic products and other hazardous wastes or hazardous materials as defined in this and other chapters of the Lincoln Municipal Code.

**Dwelling** shall mean any building or portion thereof which is designed and used for residential purposes.

**Fly ash** shall mean all residue derived from incineration or burning of combustible or flammable material for heat, steam, or electricity, with the exception of bottom ash.

**Garbage** shall mean all animal, fruit, or vegetable wastes resulting from the handling, preparation, cooking, or consumption of food.

**Hazardous waste** shall mean all waste material which is ignitable, corrosive, chemically reactive, radioactive, or toxic, as defined by the U.S. Code of Federal Regulations (CFR) Title 40, Part 261 - Identification and Listing of Hazardous Waste, and the Nebraska Department of Environmental Quality Title 128, Nebraska Hazardous Waste Regulations.

**Health Director** shall mean the Director of the Lincoln-Lancaster County Health Department or duly authorized representatives of the director.

**Industrial waste** shall mean waste from factories, processing plants, and other manufacturing enterprises.

**Infectious waste** shall mean wastes from hospitals, medical clinics, offices of physicians, doctors, surgeons, dentists, veterinarians, pathological laboratories, research and development laboratories, dispensaries, blood plasma centers, and other like facilities which contain any of the following:

(1) Blood and body fluids that include fluid blood, blood products, and body fluids. (This shall not include dried blood or dried body fluids.) Blood and blood products shall include human serum, human plasma, and other human blood components. The term body fluid includes semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid and any other body fluid visibly contaminated with blood;

(2) Infectious sharp waste, which shall include: all discarded items derived from (i) human patient diagnosis, care, or treatment, or (ii) animals infected with zoonotic disease, which could potentially transmit disease via direct subdermal (beneath the skin) inoculation, including hypodermic needles, scalpels, and breakable containers containing materials defined herein as infectious;

(3) Laboratory wastes, which shall include: all cultures and stocks of infectious agents, including specimen cultures from medical and pathological laboratories, cultures and stocks from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate and mix culture;

(4) Animal waste, which shall include: all such waste derived from animals afflicted with zoonotic disease or purposely infected with agents communicable to humans, including blood and body fluids, carcasses, body parts, excrement, and bedding of such animals;

(5) Other waste, which shall include wastes that contain pathogenic microbial agents or other biologically active materials in sufficient concentrations that exposure to the waste directly or indirectly creates a significant risk of disease.

**Lawn waste** shall mean grass cuttings or clippings and leaves.

**Limited landfill** shall mean a type of operation approved by the Health Director in which only building rubbish and demolition debris are disposed of by plan on a specified parcel of land and operated and maintained in such a manner as to present no danger to the health and safety and welfare of human beings.

**Liquid waste** shall mean any waste which contains free liquids which will readily separate from the solid portion of a waste under ambient temperature and pressure as determined by the federal Environmental Protection Agency Paint Filter Liquid Test Method 9095 of Test Methods for Evaluation Solid Waste Volume 1 section C November 1986.

**NDEQ** shall mean the Nebraska Department of Environmental Quality.

**Person** shall mean and include any individual, firm, corporation, association, partnership, institution, or entity, whether public or private.

**Putrescible** shall mean capable of being decomposed by microorganisms with sufficient rapidity as to be likely to cause nuisances from odors, gases, or liquids.

**RCRA** shall mean the Resource Conservation and Recovery Act of 1976, 42 U.S.C., Paragraph 6901, et seq., as amended.

**Refuse** shall mean and include garbage, building rubbish, demolition debris, putrescible waste, commercial waste, industrial waste, and special waste as herein defined, and all sweepings, ashes, paper, cardboard, feathers, rags, glass, dishes, bottles, crockery, pans, utensils of every kind and nature, pasteboard boxes, food containers, tin cans, and any other waste matter or material. For purposes of this chapter, the term refuse shall not include hazardous waste as defined in this chapter; universal waste, as defined by the Nebraska Department of Environmental Quality Title 182, Chapter 25 - Standards for Universal Waste Management, destined for a universal waste facility; or recyclables, as defined in Section 5.41.010 of this code, that have been separated out at the source.

**Refuse hauler** shall mean any person engaged in the business of collecting, hauling, or conveying refuse as defined in this section or who, as part of the duties of such person's occupation, collects, hauls, or conveys refuse as defined in this section.

**Sanitary landfill** shall mean a type of operation licensed or approved by the State of Nebraska in which solid waste is deposited by plan on a specified portion of land, is compacted by force applied by mechanical equipment, and then is covered by compacted suitable covering material to a depth of at least six to twelve inches over individual cells of solid waste materials, which are closed at the end of each day, and to a depth of at least twenty-four inches over the finished landfill.

**Site** shall mean the contiguous land area where any regulated or related activity is physically located or conducted. Properties that are separated only by a street, alley, or other public right-of-way shall be considered contiguous.

**Solid waste** shall mean all putrescible and nonputrescible wastes whether in solid or liquid form and includes garbage, scavenger matter, rubbish, ashes, refuse, fill dirt, sewage sludge, street refuse, commercial and industrial wastes, demolition debris and all used construction material, building rubbish, discarded automobile and other types of vehicle body parts or portions thereof, machinery or parts thereof, discarded home or industrial appliances, iron, steel and other old or metal scrap material, manure, human excrement, vegetable or animal solids and semi-solid waste, infectious waste, special waste, lawn waste, tree limbs, branches, shrubbery, bushes, and other similar organic waste, including garden vegetative material, dead animals or parts thereof, and other discarded solid materials.

**Waste hauler** shall mean any refuse hauler engaged in the business of collecting, hauling, or conveying garbage, putrescible waste, or infectious waste or who, as part of the duties of such person's occupation, collects, hauls, or conveys garbage, putrescible waste, or infectious waste. (Ord. 19544 §1; June 6, 2011: prior Ord. 18472 §1; November 29, 2004: Ord. 18149 §1; March 17, 2003: Ord. 16241 §1; September 28, 1992: Ord. 16209 §1; August 31, 1992: Ord. 15746 §1; October 8, 1990: Ord. 15562 §1; May 14, 1990: P.C. §8.28.010: Ord. 14906 §1; June 13, 1988: Ord. 14373 §1; April 21, 1986: Ord. 3489 §11-601, as amended by Ord. 3842; September 2, 1941).

#### **8.32.020 Declaration of Policy.**

A sanitary landfill provides a means of solid waste disposal. It is operated and designed to minimize potential contamination of waters and the environment thereby protecting the public health and safety. Decisions regarding matters influencing operation shall be based upon state and federal law, public health practices, and civil engineering principles. (Ord. 15562 §2; May 14, 1990: P.C. §8.28.015: Ord. 14373 §2; April 21, 1986).

#### **8.32.030 Sanitary Landfill; Designated by Council.**

The City Council shall, by resolution, designate a place or places for the operation of a public sanitary landfill to be used for the disposal of solid waste, and other offensive or obnoxious substances. It shall be unlawful for any person to dump, deposit, or otherwise dispose of any solid waste, hazardous waste, offensive or obnoxious substances within the corporate limits of the city or within three miles of the limits thereof, upon any ground, premises, or place other than that designated or approved as a public sanitary landfill by the City Council; provided that it shall be lawful to dump, deposit, or otherwise dispose of building rubbish and demolition debris at a limited landfill as hereinafter provided or stipulated by other chapters of the Lincoln Municipal Code. (Ord. 15562 §3; May 14, 1990: P.C. §8.28.020: Ord. 14906 §2; June 13, 1988: Ord. 14373 §3; April 21, 1986: Ord. 11695 §1; July 7, 1976: Ord. 10642 §1; December 11, 1972: Ord. 3489 §11-602; July 6, 1936).

#### **8.32.040 Public Sanitary Landfills; Location; Type of Solid Waste Accepted for Disposal.**

Two public sanitary landfills are hereby designated for purposes of dumping and disposal of solid waste. One public sanitary landfill shall be located on 48th Street, approximately three-quarters of a mile north of Superior Street. The second public sanitary landfill shall be located at the southeast corner of 56th Street and Bluff Road. The types of solid waste to be accepted for dumping and disposal at the public sanitary landfills shall be as follows:

(a) The 48th Street public sanitary landfill site shall accept for dumping and disposal lawn waste as defined in Section 8.32.010; all recyclable material; all building rubbish and demolition debris as defined in Section 8.32.010; all special waste as defined in Resolution No. A-71367, unless otherwise designated for disposal at the 56th Street and Bluff Road site by the Department of Public Works and Utilities; and all other solid waste as approved by permit issued by NDEQ and the Public Works and Utilities Director.

(b) The types of waste to be accepted for dumping and disposal at the 56th Street and Bluff Road site shall be all solid waste as approved by permit issued by NDEQ and the Public Works and Utilities Director. (Ord. 18472 §2; November 29, 2004: prior Ord. 16951 §41; March 11, 1996: Ord. 15562 §4; May 14, 1990: P.C. §8.28.025: Ord. 15007 §1; October 3, 1988).

#### **8.32.050 Setting Fires in Sanitary Landfill Prohibited; Penalty for Violations.**

It shall be unlawful for any person to set a fire upon, or cause a fire to be set upon, any sanitary landfill heretofore or hereafter designated as such under the provisions of this chapter.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed six months or by a fine in any sum not less than \$100.00 nor more than \$500.00, or both fine and imprisonment. (Ord. 15562 §5; May 14, 1990: P.C. §8.28.030: Ord. 14373 §4; April 21, 1986: Ord. 3489 §11-602.1, as amended by Ord. 4018; May 7, 1945).

#### **8.32.060 Public Sanitary Landfills.**

Public sanitary landfills shall be under the supervision of the Director of Public Works and Utilities. Said landfills shall be kept open for dumping and disposal purposes in accordance with the hours of operation proposed by the Public Works and Utilities Director subject to approval by the Mayor. (Ord. 19508 §1; March 14, 2011: prior Ord. 18902 §1; March 26, 2007: Ord. 18149 §2; March 17, 2003: Ord. 16951 §42; March 11, 1996: Ord. 16321 § 1; March 8, 1993: Ord. 15562 §6; May 14, 1990: P.C. §8.28.040: Ord. 15495 §1; March 19, 1990: Ord. 15370 §1; December 18, 1989: Ord. 15007 §2; October 3, 1988: Ord. 14373 §6; April 21, 1986: Ord. 12411 §1; October 30, 1978).

#### **8.32.070 Sanitary Landfill; Prohibited Activities.**

It shall be unlawful for any person to dump any solid waste at either of the public sanitary landfills designated in Section 8.32.040 except during the hours of operation adopted pursuant to Section 8.32.060. The superintendent in charge of such landfill shall designate the place or places where all solid waste brought to the landfill shall be placed. The superintendent may require a permit for any special waste brought to the landfill. Said superintendent may require persons bringing solid waste to said landfill for disposal to separate such solid waste according to kinds or classes of material, and to deposit such different kinds or classes of materials in different places on said landfill, and may direct the manner and method of dumping and disposing of such solid waste.

It shall be unlawful for any person to bring any automobiles, automobile bodies, parts of automobiles, or machinery to such landfill without having first dismantled or taken the same apart so that the pieces and parts thereof shall meet the sizes specified in the rules and regulations as promulgated by the Department of Public Works and Utilities, and the superintendent shall not permit the same to be deposited at the landfill unless so dismantled or taken apart.

It shall be unlawful for any person to bring any pressured containers or containers that may explode upon crushing, empty containers over five gallons in size, empty containers labeled "Danger" or which once contained hazardous material, or fuel tanks or containers without first

having met the criteria for safe disposal of the same as determined and established by rules and regulations adopted by the Department of Public Works and Utilities, and the superintendent shall not permit the same to be deposited at the landfill until the containers or tanks comply with such rules and regulations.

No solid waste, including trees, lumber, metals, concrete, etc., shall be accepted in the landfill if said waste has a maximum dimension in any direction (width, height, breadth) of more than six feet. This restriction may be waived by the person in charge of operating the landfill if they feel that allowing such materials will not impede the operation of the landfill.

It shall be unlawful for any person other than authorized landfill employees and officers of recognized law enforcement agencies to possess a loaded firearm within limits of the sanitary landfill.

It shall be unlawful for any person to bring any vehicle, container, or trailer into the sanitary landfill unless it is constructed or covered in such a manner that wastes cannot have fallen, spilled, or been discharged from said vehicle, container, or trailer on the roads from the point of loading to the site of waste disposal that has been designated for unloading.

The authorized use of the sanitary landfill is for the citizens of the City of Lincoln, residents of Lancaster County, and for the disposal of solid waste generated within Lancaster County. Unauthorized use of the landfill shall be subject to prosecution under penalties of this chapter. Unauthorized use includes licensed haulers who bring refuse from outside the county to the landfill.

No statement contained in this chapter shall be construed as preventing special agreement or arrangement between the city and any party for disposal of wastes. (Ord. 19508 §2; March 14, 2011: prior Ord. 18472 §3; November 29, 2004: Ord. 17087 §1; November 12, 1996: Ord. 16951 §43; March 11, 1996: Ord. 16241 §2; September 28, 1992: Ord. 15562 §7; May 14, 1990: P.C. §8.28.042: Ord. 15342 §1; November 6, 1989: Ord. 15240 §1; August 7, 1989: Ord. 14373 §7; April 21, 1986).

### **8.32.080 Special Waste Disposal; Permit Required.**

(a) The following solid waste materials are hereby designated as special wastes:

Group I: Wastes That May Contain Free Liquids

- (1) Cooking oil and grease;
- (2) Cooking grease trap waste;
- (3) Mud or sand from sumps or traps;
- (4) Septic tank waste;
- (5) Chemicals and waste from portable or chemical toilets;
- (6) Sewage or other organic residues or sludges;
- (7) Sludges containing a liquid concentration of 80% or more by weight or material producing free liquids in a Standard Paint Filter;

Group II: Petroleum-based Wastes

- (8) Petroleum type grease trap waste;
- (9) Sludges from petroleum tanks;
- (10) Petroleum contaminated refuse, soil, or other materials;
- (11) Petroleum contaminated water;
- (12) Oil, lubricants, hydraulic fluids, fuels, and other petroleum products;

Group III: Empty Containers

- (13) Pressurized containers or containers that may explode upon crushing;
- (14) Containers over five gallons in size;
- (15) Empty container labeled "DANGER" or which once contained hazardous material;
- (16) Fuel tanks;

Group IV: Solvents, Absorbents, Filters, and Residues

- (17) Solvents, degreasers, strippers, thinners, and related products;
- (18) Refuse containing solvents, degreasers, strippers, or thinners;
- (19) Lime or other inorganic residues or sludges;
- (20) Paint, dry paint waste, filters, and paint contaminated material;
- (21) Fly ash;
- (22) Bottom ash;

Group V: Hazardous or Toxic Chemicals or Chemical Products

- (23) Antifreeze or treatment chemicals for boilers, heat exchangers, cooling towers, and similar uses;
- (24) Chemicals labeled WARNING for toxics and pesticides;
- (25) Pharmaceutical products;
- (26) Adhesives, sealants, coatings or catalysts;
- (27) Material containing between 25 and 100 percent of the maximum concentration of any Toxic Characteristic Leaching Procedure (TCLP) listed chemical as referenced in 40 CFR Part 261, subpart C, Chapter 261.24, Table 1 or that exceeds a concentration of 0.3 mg/kg of nickel;
- (28) Hazardous or potentially hazardous waste or chemicals labeled "DANGER";

Group VI: Miscellaneous

- (29) Treated or untreated infectious waste from hospitals;
- (30) Treated or untreated infectious waste from other than hospitals;
- (31) Waste containing or likely to contain polychlorinated biphenyls (PCB);
- (32) Waste containing asbestos;
- (33) Material other than asbestos that could create a health hazard if airborne;
- (34) Wood that has been treated with hazardous or toxic chemicals;
- (35) Any other solid waste which requires special management to ensure protection of public health, safety, or the environment based upon the physical, chemical, or biological properties of the waste.

(b) No industry, commercial operation, or home occupation shall dispose of any special wastes in quantities greater than that provided from time to time by resolution of the City Council as authorized by Section 8.32.090 of the Lincoln Municipal Code, without first obtaining a written permit from the Health Director. Any person authorized to dispose waste by a valid RCRA permit issued by the State of Nebraska shall not be required to obtain a separate permit to fulfill the requirements of this subsection.

(c) The Health Director shall issue a permit only after:

(1) A written request is made providing the source of the waste including name and address of the generator, a description of the waste material, chemical data sheets, quantities, generation rates, intended disposal method and disposal site, and any other information about the waste as required by the Health Director to determine acceptability of the disposal method and site proposed in the request.

(2) Written approval is received from the Public Works and Utilities Director for materials to be disposed of at the landfill or the wastewater treatment plants.

(d) The Public Works and Utilities Director or the Health Director may provide special conditions reasonably related to the handling or disposal of any permitted waste by providing the same in writing on the permit.

(e) The Public Works and Utilities Director or the Health Director may deny permission for disposal of wastes that may have been approved by the state.

(f) A separate permit shall be required for each type of waste proposed for disposal.

(g) Each industry, commercial operation, or home occupation disposing wastes as described above must apply for and be granted a special waste permit, and a separate permit shall be required for each site from which such waste is being disposed. Permits shall be granted for a period of time not to exceed three years.

(h) Special waste permits may not be transferred.

(i) The special waste permit must be made available and displayed upon request to landfill operations personnel when entry to the landfill for disposal is requested. Any permit must be specific to the accompanying waste, and the superintendent of the landfill shall have the authority to refuse disposal of any special waste not properly permitted.

(j) The Health Director may request periodic reporting of quantities of special wastes as outlined above and the superintendent of the landfill may deny the dumping of all special wastes at any time, depending upon the condition of the landfill.

(k) Industrial, commercial, and home occupation generators of a special waste, in any quantity, must upon request by the Health Director, provide an inventory of wastes generated. Said inventory shall include all waste types, amounts, and the intended off-site destination or means of disposal after leaving the facility.

(l) Permitted waste may be rejected without prior notice to protect the disposal site from contamination and for other appropriate reasons including, but not limited to the following:

(1) Waste characteristics or volumes are not representative of those described on the special waste disposal permit;

(2) The waste has characteristics or reasonably appears to be hazardous waste or other waste which is prohibited from disposal at the disposal site or which is not specifically exempted or otherwise conditionally approved by a valid special waste disposal permit;

(3) Failure to present a suitable copy of a valid special waste disposal permit to the city representative receiving the waste;

(4) Failure to cooperate with city representatives inspecting or monitoring incoming waste;

(5) Previous failure to comply with disposal directions or abuse or damage to city property from previous improper disposal on city property through negligence or carelessness while using the city's disposal sites;

(6) Temporary operational problems or constraints at the disposal site which in the opinion of the Public Works and Utilities Director or the Health Director preclude the acceptance of the waste at that time;

(7) Delinquent payment of disposal fees; or

(8) Failure to comply with the conditions of the special waste disposal permit. (Ord. 18472 §4; November 29, 2004: prior Ord. 17087 §2; November 12, 1996: Ord. 16917 §1; January 16, 1996; Ord. 16466 §1; September 13, 1993: Ord. 16407 §1; July 6, 1993; Ord. 16241 §3; September 28, 1992: Ord. 15746 §2; October 8, 1990: Ord. 15562 §8; May 14, 1990: P.C. §8.28.043: Ord. 15240 §2; August 7, 1989).

#### **8.32.085 Special Waste Disposal; Inspections.**

When reasonable cause exists to believe that any person has violated the provisions of this chapter or when any industry, commercial operation, or home occupation has disposed of special waste and fails to provide an inventory as required in this chapter, the Health Director is authorized to conduct inspections to determine compliance with the disposal, permitting, and reporting requirements of this chapter. (Ord. 17087 §3; November 12, 1996).

#### **8.32.090 Special Waste Permit; Fees.**

The City Council may from time to time establish or revise, by resolution, fees to be charged to any person receiving a special waste permit. Such fees when so established or revised shall be used exclusively for the purpose of administering, operating, and enforcing the special waste permit provisions of this chapter. All fees collected under the provisions of this chapter shall be deposited with the City Treasurer who shall credit them to the Health Fund. (Ord. 15746 §3; October 8, 1990: prior Ord. 15562 §9; May 14, 1990: P.C. §8.28.044: Ord. 15240 §3; August 7, 1989).

#### **8.32.100 Public Sanitary Landfill; Fee for Use.**

The City Council may from time to time establish or revise, by resolution, fees to be charged to any person for the privilege of using any public sanitary landfill or other waste disposal facility owned by the City of Lincoln. Such fees, when so established or revised, shall be collected by the Director of Public Works and shall be set aside in the Sanitary Landfill Revenue Fund which is hereby created. The fees collected and other revenue from operations of the sanitary landfill shall be used exclusively for the purpose of operating, expanding, and improving existing public sanitary landfills or solid waste disposal facilities, including reclamation of such landfill or facilities for other purposes and for the purpose of paying the costs of any purchase, construction, lease, or condemnation of property, including the costs of any bonded indebtedness and the equipping, developing and operation of such property for use as a public sanitary landfill or solid waste disposal facility. (Ord. 18149 §3; March 17, 2003: prior Ord. 16666 §1; August 29, 1994: Ord. 15562 §10; May 14, 1990: P.C. §8.28.045: Ord. 14409 §1; June 23, 1986: Ord. 14373 §8; April 21, 1986: Ord. 13686 §1; September 6, 1983).

#### **8.32.110 Waste Haulers; License Required.**

It shall be unlawful for any person to collect, haul, or convey garbage, putrescible waste, or infectious waste from property within the corporate limits of the city or within three miles thereof without first having procured a license to do so under the provisions of this chapter; provided, however, no license shall be required:

- (a) For a homeowner conveying garbage, putrescible waste, or infectious waste from his or her own residence to the public sanitary landfills; or
- (b) For collecting, hauling or conveying dead animals, grease, and other putrescible wastes to rendering facilities.

(c) For collecting, hauling or conveying liquid wastes if said person holds a current Cleaner and Liquid Waste Hauler permit issued by the Health Director pursuant to Lincoln Municipal Code Section 24.38.060.

(d) For collecting, hauling and conveying lawn waste. (Ord. 18472 §5; November 29, 2004: prior Ord. 18149 §4; March 17, 2003: Ord. 15562 §11; May 14, 1990: P.C. §8.28.050: Ord. 14373 §9; April 21, 1986: Ord. 3489 §11-604, as amended by Ord. 3842, September 2, 1941).

### **8.32.120 Vehicles or Containers; Specifications and Inspection.**

Any vehicle or container used in collecting, hauling, or conveying garbage, putrescible waste, or infectious waste over the streets within the corporate limits of the city or within three miles thereof shall comply with the following specifications:

(a) The part of the vehicle or container which contains the garbage, putrescible waste, or infectious waste shall:

(1) be constructed of durable materials;

(2) be so constructed that liquid waste will not spill, leak, or be discharged therefrom while the waste is being conveyed from the point of pickup to the approved landfill or the waste be contained in such a way as to prevent spills, leaks or discharges;

(3) be so constructed that waste will not fall, spill, or blow from, or otherwise leave the container until emptied at the approved landfill. If the container has an open top, an effective protection net must be provided and be placed over the waste being transported so as to prevent the waste from leaving the container during transport.

(b) The outside of the vehicle or container shall be kept well maintained, painted, and free of excessive dirt and similar offensive materials at all times. The inside shall be kept clean and sanitary when not in use.

(c) The vehicle or container shall be kept in good repair so as to prevent the waste from leaking, spilling, or falling from or otherwise being discharged from the vehicle or container during transport.

Accessory vehicles used only for collecting and depositing garbage, putrescible waste, or infectious waste in another vehicle or container and not used for transporting garbage, putrescible waste, or infectious waste to a licensed landfill or transfer station shall not be required to be fully enclosed nor be required to use protective nets if so constructed that waste will not be spilled or blown therefrom.

Any vehicle or container used in collecting and hauling garbage, putrescible waste, or infectious waste placed in service after the passage of this chapter shall comply with the foregoing requirements.

The Health Director is authorized to make such vehicle or container inspections as deemed necessary to ensure adequate compliance with this ordinance. (Ord. 18472 §6; November 29, 2004: prior Ord. 15562 §12; May 14, 1990: P.C. §8.28.060: Ord. 14373 §10; April 21, 1986: Ord. 3489 §11-605, as amended by Ord. 6861; December 22, 1958).

### **8.32.130 Application for Waste Hauler License; Information Required; Bond.**

Application for a license to collect, haul, or convey garbage, putrescible waste, or infectious waste shall be made to the Health Director upon forms furnished by the Health Director, which shall set forth the name and residence of the applicant, the business location, the number and kind of vehicles to be used, with a definite description of each such vehicle, and such other information as may be required to satisfactorily identify the applicant and such vehicles. Such applicant shall file

with the application a proof of bond as herein required; and a treasurer's receipt showing the appropriate tax for street improvement has been paid on each vehicle to be licensed. Before any license is issued by the Health Director, the applicant shall execute and file with the City Clerk a bond in the sum of \$500.00, with one or more sufficient sureties thereon to be approved by the City Attorney, conditioned that such applicant shall indemnify and save harmless the city from any damage or injury due to or on account of the act of neglect or default of such applicant and conditioned, further, that such applicant shall well and truly comply with all ordinances or regulations of the city respecting the collecting, hauling, or conveying of refuse. (Ord. 18472 §7; November 29, 2004; prior Ord. 15562 §13; May 14, 1990: P.C. §8.28.070: Ord. 14373 §11; April 21, 1986: Ord. 3489 §11-606, as amended by Ord. 7160; May 16, 1960).

#### **8.32.140 License; Expiration.**

All licenses hereunder shall expire on the thirty-first day of May following the issuance unless sooner revoked, and no license shall be assignable or transferable. (Ord. 18472 §8; November 29, 2004; prior Ord. 15562 §14; May 14, 1990: P.C. §8.28.080: Ord. 14373 §12; April 21, 1986: Ord. 3489 §11-607, as amended by Ord. 3842; September 2, 1941).

#### **8.32.150 Occupation Tax.**

(a) There is hereby imposed an occupation tax of \$9.00 on each ton of refuse collected by a refuse hauler within the corporate limits of the City of Lincoln, and a tax of \$9.00 on each ton of refuse collected by a refuse hauler outside the corporate limits of the City of Lincoln and deposited in the public sanitary landfills as designated in Section 8.32.040 of the Lincoln Municipal Code; effective September 1, 2015, the rate of occupation tax on refuse collected within the corporate limits as provided herein, and on refuse collected outside the corporate limits and deposited in the public sanitary landfills as provided herein, shall be raised to \$11.00 per ton. The occupation taxes authorized herein shall be used exclusively for funding solid waste management programs, including the payment of principal and interest on revenue bonds issued by the City of Lincoln.

(b) Each refuse hauler shall remit to the Public Works and Utilities Department payment of occupation taxes due and owing from the previous calendar month, together with a complete and detailed statement of (1) the tonnage of refuse collected within the corporate limits of the City of Lincoln, and (2) the tonnage of refuse collected outside of the corporate limits of the City of Lincoln and deposited in the public sanitary landfills during that period. The statement shall identify any tonnage claimed to fall under an exemption to the occupation tax set forth in subparagraph (d) hereof. Such statement shall be duly verified and sworn to by the officer or officers in charge of the business. All such businesses shall at all reasonable times during business hours permit the City, through its officers, agents, or representatives, to inspect the books and records of any such business for the purpose of verifying such report or reports.

(c) All refuse collected by refuse haulers within the corporate limits, whether destined for deposit in the public sanitary landfills as designated in Section 8.32.040 or for deposit elsewhere, shall, before leaving the corporate limits of the City of Lincoln, be weighed at the scales located at the public sanitary landfill at 56th Street and Bluff Road or at such other scales approved by the Director of Public Works and Utilities. The refuse hauler shall, at that time, advise the sanitary landfill operator or his designated representative of the amount of such tonnage destined for deposit outside the State of Nebraska. Any refuse not being deposited at the public sanitary landfills designated under Section 8.32.040, whether destined for deposit inside or outside the State of Nebraska, shall be weighed and the driver of the vehicle shall be provided a certificate of weight which shall be displayed upon demand to any police officer of the City of Lincoln.

(d) The occupation tax provided herein shall not be imposed upon (1) refuse destined for deposit at any location outside the State of Nebraska; (2) building rubbish or demolition debris lawfully being deposited in the 48th Street public sanitary landfill; (3) liquid waste, as defined in Section 8.32.080 herein; or (4) recyclables, including recyclables mixed with refuse, destined for a materials recovery facility licensed by the Nebraska Department of Environmental Quality per Title 132 or the Federal Resource Conservation and Recovery Act. (Ord. 20082 §1; August 18, 2014: prior Ord. 19818 §3; December 17, 2012: Ord. 19790 §1; October 8, 2012: Ord. 19756 §1; August 8, 2012: Ord. 18472 §9; November 29, 2004: Ord. 18149 §5; March 17, 2003: Ord. 17842 §1; April 30, 2001: Ord. 15562 §15; May 14, 1990: P.C. §8.28.090: Ord. 14373 §13; April 21, 1986: Ord. 3489 §11-608, as amended by Ord. 3842; September 2, 1941).

#### **8.32.160 License Number; Sticker Displayed on Vehicle.**

Each such license certificate shall be numbered and the applicant shall procure from the Health Director a permit sticker with the license certificate number thereon for each vehicle used by him, and which permit sticker shall at all times be permanently affixed to the vehicle as prescribed by the Health Director at the time of issuance. (Ord. 18472 §10; November 29, 2004: prior Ord. 15562 §16; May 14, 1990: P.C. §8.28.100: Ord. 14373 §14; April 21, 1986: Ord. 3489 §11-609, as amended by Ord. 3842; September 2, 1941).

#### **8.32.180 Owner or Occupant of Premises; Disposal of Solid Waste.**

It shall be unlawful for any person to cause or suffer any solid waste, hazardous waste, industrial waste, or any foul or nauseous liquors to be discharged out of or flow from any premises owned or occupied by him, or to be left in or thrown into, deposited, or placed upon any street, alley, avenue, public square, vacant lot, or other place within the corporate limits of the city or within three miles thereof. (Ord. 15562 §18; May 14, 1990: P.C. §8.28.130: Ord. 14373 §17; April 21, 1986: Ord. 3489 §11-612; July 6, 1936).

#### **8.32.190 Owner or Occupant of Premises; Disposal of Substances Liable to Become Offensive.**

It shall be unlawful for any person to permit or suffer any substance of the nature mentioned in Section 8.32.180 which is liable to become putrid, offensive, or injurious to the public health to remain on any premises owned or occupied by such person within the corporate limits of the City of Lincoln or within three miles thereof for a longer period than twenty-four hours after notification by the Health Director to remove and properly dispose of said substance. Said notification shall be made in writing and personally delivered or sent by certified mail, return receipt requested. (Ord. 15562 §19; May 14, 1990: P.C. §8.28.140: Ord. 14373 §18; April 21, 1986: Ord. 3489 §11-613; July 6, 1936).

#### **8.32.200 Commercial and Industrial Businesses to Provide Receptacles or Containers.**

The owner, agent, or manager having charge of a commercial or industrial business shall furnish the same with containers or receptacles for solid waste and industrial waste for the purpose of receiving such wastes from their place of business. Such receptacles or containers shall comply with all the specifications set forth in Section 8.32.220 hereof.

If the commercial or industrial establishment disposes of infectious waste materials, the waste receptacle shall be provided with a locking assembly so as to maintain controlled access to the container for depositing and removing the infectious waste.

It shall be the responsibility of the owner, agent, or manager having charge of the business to provide for the collection and disposal of all solid waste generated by said establishment. Solid waste accumulated by the establishment shall be removed from the establishment premises at

intervals necessary to maintain proper sanitary conditions but not less than twice a week. (Ord. 15562 §20; May 14, 1990: P.C. §8.28.150: Ord. 14373 §19; April 21, 1986).

#### **8.32.205 Garbage Service to be Provided.**

The owner of every dwelling in the city shall provide for the collection and removal of solid waste by a licensed waste hauler at least once a week, subject to any exceptions or additional requirements provided by governing law. The owner of every dwelling containing more than two dwelling units shall provide for collection and removal of solid waste accumulated by occupants of such rented or leased dwelling by a licensed waste hauler at least twice every week. All owners shall be responsible and liable hereunder whether or not the said owner occupies or resides in the dwelling, and whether or not said dwelling is leased or rented to another. (Ord. 19544 §2; June 6, 2011).

#### **8.32.210 Containers or Receptacles to be Provided for Solid Waste.**

The owner, agent, or manager having charge of a dwelling for rent or lease within the corporate limits of the city or within three miles thereof shall furnish the same with a sufficient number of solid waste receptacles or containers to accommodate all solid waste from the rented or leased dwelling units. Such receptacles or containers shall comply with all the specifications set forth in Section 8.32.220.

The owner, agent, or manager having charge of a dwelling for rent or lease shall be responsible for collecting, removing, and disposing of any solid waste generated or accumulated at said dwelling.

The tenant or occupant of any rented or leased dwelling shall be responsible for the placing of solid waste in provided receptacles.

Solid waste left on the premises of a rented or leased dwelling by a tenant or occupant who has vacated said dwelling is the responsibility of the owner, agent, or manager of said dwelling and said owner, agent, or manager shall remove that solid waste from the premises within forty-eight hours after vacation by the tenant or occupant. (Ord. 19544 3; June 6, 2011: prior Ord. 16209 §2; August 31, 1992: Ord. 15562 §21; May 14, 1990: P.C. §8.28.160: Ord. 14551 §1; November 17, 1986: Ord. 14373 §20; April 21, 1986).

#### **8.32.220 Receptacles to be Provided for Solid Waste; Specifications.**

One or more of the following receptacles or containers shall be provided and maintained for the holding of solid wastes:

(a) Garbage can: A container or receptacle constructed of a metal treated to prevent rusting, or heavy duty plastic for garbage and refuse, of substantial construction with a matching overhanging, tight-fitting lid and provided with handles sufficient for safe and convenient handling. Such receptacles or containers shall be water-tight and fly-tight, having a capacity of not more than thirty-two gallons and shall be kept in serviceable conditions at all times.

(b) Front- and/or rear-loading bulk container: A container or receptacle, constructed of 14-gauge or heavier metal treated to prevent rust, or heavy-duty rigid plastic of water-tight construction with doors or lids opening on sides or top and constructed such that it can be emptied mechanically by special trucks. Doors and lids must be manufactured from 12-gauge or heavier metal or heavy-duty rigid plastic.

(c) Roll-off: A metal container or receptacle, treated to prevent rust, designed for collecting, storing, and transporting building rubbish, demolition debris, or hazardous industrial waste. Those

roll-offs used to collect, store, or transport refuse shall in addition be of water-tight construction or the refuse stored therein shall be stored in such a manner so as to prevent leakage of liquid wastes from the roll-off. The unit may or may not use an auxiliary stationary packing mechanism for compaction of material into container or receptacle and is picked up and transported to the disposal site by specially equipped truck.

(d) Poly-kart, roll-out, or toter: A container or receptacle constructed of a metal frame with molecular stabilized polyethylene body, or a total unit constructed of a heavy polyethylene plastic alloy, thus being “water-tight.” Such containers shall have lids so constructed so as to prevent insect and rodent entry. Each container shall have at least two wheels and a handle for easy and safe mobility.

(e) Plastic bags: Plastic bags shall not be used for storage of solid waste containing garbage or lawn waste and shall not be used in place of the aforementioned receptacles. Plastic bags may be used in the following ways:

- (1) As a liner for garbage cans;
- (2) To hold and contain garbage and refuse which is placed in one of the aforementioned container.

(f) Lawn waste containers: A degradable paper container or other container of suitable, two-ply moisture resistant materials that will not adversely impact composting. Lawn waste may also be contained in separate garbage cans, bulk containers, roll-offs, poly-karts, roll-outs, or toters, provided that such containers shall have suitable tight-fitting lids; be water-tight and fly-tight; and be kept in serviceable condition at all times.

A sufficient number of containers shall be provided to store all solid waste materials prior to removal from the premises. Such containers or receptacles shall be kept on the premises in a place accessible and convenient for the collection service and kept in a sanitary and serviceable condition. All containers used for garbage shall be kept covered or closed to prevent the entrance of insects and rodents. The location of the containers or receptacle shall be kept clean and well-maintained.

Each front-loading, rear-loading, and roll-off container of any size, and all poly-karts and roll-outs exceeding ninety gallons in capacity must display the name of the owner of the container and either a valid current address or valid current telephone number where the owner of the container can be contacted. This information must be displayed in letters at least one inch in height and must be so located as to be easily read. (Ord. 19544 §4; June 6, 2011: prior Ord. 16209 §3; August 31, 1992: Ord. 15562 §22; May 14, 1990: P.C. §8.28.170: Ord. 14373 §21; April 21, 1986).

### **8.32.230 Depositing Refuse and Garbage; Places Prohibited; Liability of Occupant of Premises.**

It shall be unlawful for any person to deposit any garbage or refuse in any street, alley, or public place within the corporate limits of the city or within three miles thereof, except at a sanitary landfill designated by the City Council for such purpose, or at any place on private property within the same said boundaries, except in a garbage and refuse container or receptacle as hereinbefore provided. If any garbage or refuse is found upon any private premises other than in such container or receptacle and a prosecution follows for such offense, it shall be presumed in such proceedings that such garbage and/or refuse was deposited there by the occupant of such premises. (Ord. 15562 §23; May 14, 1990: P.C. §8.28.180: Ord. 14373 §22; April 21, 1986).

#### **8.32.240 Scavenging at Sanitary Landfill Prohibited; Exceptions.**

It shall be unlawful for any person other than duly authorized city employees to enter upon any sanitary landfill, except only for the purpose of dumping and depositing thereon articles or substances or wastes permitted to be dumped or deposited at such landfill. It shall be unlawful for any person to search over or remove any article, thing, or substance which has been dumped at such landfill.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by imprisonment in the county jail for a period not to exceed six months or by a fine in any sum not less than \$100.00 nor more than \$500.00 or both fine and imprisonment. (Ord. 15562 §24; May 14, 1990: P.C. §8.28.190: Ord. 14373 §23; April 21, 1986).

#### **8.32.250 Enforcement.**

The enforcement of the provisions of this chapter shall be under the Health Director. For the purpose of enforcing this chapter or abating any nuisance existing hereunder, the Health Director or any sanitarian may enter private premises. (Ord. 15562 §25; May 14, 1990: P.C. §8.28.200: Ord. 14373 §24; April 21, 1986).

#### **8.32.260 Penalty for Violations.**

(a) Any person upon whom a duty is placed by the provisions of this chapter except Sections 8.32.050 and 8.32.240 who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this chapter, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed six months or by a fine in a sum not more than \$500.00, recoverable with costs, or both, except that each person so convicted shall be fined in a sum of not less than \$100.00 for the first offense, not less than \$250.00 for a second offense, and not less than \$500.00 for the third offense and each offense thereafter.

(b) Each day that a violation of any section in this chapter continues shall constitute a separate and distinct offense and shall be punishable as such. The penalties herein provided shall be cumulative with and in addition to any penalty or forfeiture elsewhere in this chapter provided. (Ord. 15562 §26; May 14, 1990: P.C. §8.28.210: Ord. 14906 §4; June 13, 1988: Ord. 14373 §25; April 21, 1986).

#### **8.32.270 Limited Landfill; Permit Required.**

It shall be unlawful for any person to use any land, premises, or property in the city or within three miles of the corporate limits thereof, except for a public sanitary landfill, for the disposal of building rubbish or demolition debris without first securing a permit for a limited landfill.

It shall be unlawful for any person to dump, deposit, or otherwise dispose of or allow the dumping, depositing, or other disposal of any building rubbish or demolition debris within the city or within three miles of the corporate limits thereof upon any ground, premises or place other than a sanitary landfill or a limited landfill. (Ord. 15562 §27; May 14, 1990: P.C. §8.28.230: Ord. 14906 §5; June 13, 1988).

#### **8.32.280 Limited Landfill; Application for Permit.**

(a) The application for a permit to operate a limited landfill shall be filed with the Health Department and shall contain:

- (1) A legal description of the place to be used for the landfill;
- (2) A site plan showing the location of the fill area, circulation, and equipment storage;
- (3) An operation plan showing existing and proposed final elevations, topography, drainage, vegetation and cover depth;
- (4) Type and estimated volume of building rubbish or demolition debris to be placed in the landfill;
- (5) A statement of whether it will be a private landfill used exclusively by the applicant or a public landfill operated by the applicant and receiving building rubbish or demolition debris from others, including the proposed days and hours of the week the landfill will be in operation and the estimated traffic volume to the site.

(b) Upon receipt of an application for a limited landfill permit the Health Director shall examine the premises of the proposed landfill site and shall grant the permit if the Health Director finds that:

- (1) The site is suitable;
- (2) Proposed drainage is satisfactory;
- (3) The granting of the permit would not create a hazard to the public health or create a nuisance; and
- (4) The applicant has filed the bond required by Section 8.32.290 with the City Clerk. (Ord. 15562 §28; May 14, 1990; P.C. §8.28.240; Ord. 14906 §6; June 13, 1988).

#### **8.32.290 Bond Required.**

Before any permit for a limited landfill shall be issued, the applicant shall deliver to the City Clerk a cash or corporate bond in the amount of \$5,000.00 per acre, conditioned as follows:

(a) That the permittee, and agents and servants of the permittee, will faithfully operate the limited landfill for which the permit is issued in accordance with the provisions of this chapter.

(b) That the permittee, and agents and servants of the permittee, will comply with all the terms, conditions, provisions, and regulations contained in this chapter.

(c) That the permittee, and agents and servants of the permittee, will save harmless the city from any expense incurred through the failure of the permittee, or agents or servants of the permittee, to operate and maintain the limited landfill as required by this chapter including any expense the city may be put to for correcting any condition or violation of this chapter by the city's own labor and equipment whenever the City Council determines it is necessary for the city to correct any unsanitary condition or conditions violative of this chapter or from any damages growing out of the negligence of the permittee or agents or servants of the permittee.

(d) That the permittee shall pay for damages done to streets, sidewalks, or sewers from trucks, equipment or overburden placed on such streets, sidewalks, or sewers.

(e) That the bond shall run for a period of three years after the limited landfill site has been finished and brought to final grade.

The amount of the bond required may be revised annually by the Health Director to reflect any estimated increased costs of closing the site. (Ord. 15562 §29; May 14, 1990; P.C. §8.28.250; Ord. 14906 §7; June 13, 1988).

### **8.32.300 Permit Fee.**

Before any permit for a limited landfill shall be issued, the applicant shall pay to the Health Director a permit fee of \$100.00 for each acre of land or part thereof utilized as a limited landfill except that landfills of one-third of an acre or less in size, located in an AG agriculture district zone and designated for the purpose of soil stabilization shall require a fee of only fifty dollars. (Ord. 15562 §30; May 14, 1990; P.C. §8.28.260; Ord. 14906 §8; June 13, 1988).

### **8.32.310 Term of Permit; Not Transferable.**

All permits issued under this chapter shall expire one year following the date of issuance, unless sooner revoked and no permit shall be assignable or transferable. (Ord. 15562 §31; May 14, 1990; P.C. §8.28.270; Ord. 14906 §9; June 13, 1988).

### **8.32.320 Regulations.**

The following regulations shall apply to limited landfills required to be licensed under this chapter.

(a) Building rubbish and demolition debris existing on the site at the time the permit is issued, shall be collected, compacted and (1) covered with dirt or other material at least two feet in depth at the finished grade, or (2) covered with dirt or other material at least six inches in depth over those areas on which the filling operations will be conducted.

(b) No waste material other than building rubbish and demolition debris and trees or parts of trees or earth may be put in the fill. The permittee shall immediately remove any unauthorized materials placed in the fill. The permittee shall maintain a log of all the waste material deposited in the landfill and sources from which the waste was generated.

(c) Burning is prohibited unless approved by a burn permit issued by the Health Director.

(d) The landfill shall be designed and laid out so that surface drainage on the fill site shall allow storm water to drain from the landfill within six hours after the last precipitation.

(e) The landfill shall be operated in such a manner as to eliminate dust on the fill site. Access to the site shall be controlled by fencing, gates, locks, and other measures approved by the director necessary to control unauthorized entry.

(f) Building rubbish and demolition debris easily moved by wind shall be covered as necessary to prevent such waste from becoming airborne and scattered.

(g) Routes used by trucks to and from the fill site shall be approved by the Public Works and Utilities Department or County Engineer.

(h) When mud, dirt, or spilled debris accumulates on streets from trucks or from fill equipment, it shall be removed by the permittee immediately.

(i) All building rubbish, demolition debris, and trees or parts of trees, shall be spread out on the working face so that the depth does not exceed a maximum of four feet prior to its compaction. Tree parts shall not exceed a size that cannot be worked into the landfill by the equipment used for spreading and compacting the working face of the site.

(j) The compacting and leveling equipment must traverse all of the area where building refuse and demolition debris is deposited. When the slope of a bank is too steep to traverse, then the fill must proceed from the base of the slope.

(k) The landfill shall be built in cells to minimize fire hazards. It shall be covered with dirt or sand at least weekly or more frequently when requested by the Health Director.

(l) Only earth shall be placed over sewer and water lines in the fill area as specified by the Public Works and Utilities Director.

(m) When the landfill has been brought up to a level which is two feet from the desired grade, it shall be covered with at least twenty-four inches of compacted dirt and seeded in such a manner to prevent erosion. The finally graded and seeded surface shall be maintained at final grade free from erosion and in a well-seeded manner for a period of three years after filling operations have been completed.

(n) Existing topsoil shall be used for cover material, when possible, by removing the dirt prior to filling and by placing this dirt directly over the completed section of the landfill or by stockpiling this dirt until needed. Otherwise, the source of cover material shall be designated when application for a permit is made.

(o) The permittee shall file a request with the City Police Department or County Sheriff requesting that unauthorized persons found on the property be arrested for trespassing. Authorization must be in writing.

(p) The permittee shall post signage to include "No Trespassing" signs at seventy-five foot intervals along the required fence and a sign at the entrance showing the operator's name and emergency telephone numbers.

(q) The operation shall be in compliance with all applicable laws, ordinances, rules, and regulations. (Ord. 16951 §44; March 11, 1996: prior Ord. 15562 §32; May 14, 1990: P.C. §8.28.280; Ord. 14906 §10; June 13, 1988).

#### **8.32.330 Suspension, Revocation or Reinstatement of Permits.**

Notwithstanding the other provisions of this chapter, whenever the Health Director finds unsanitary or other conditions in the operation of a limited landfill which, in the director's judgment, constitutes a substantial hazard to the public health, the director may, without prior warning, notice, or hearing, issue a written notice to the permittee or operator citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and, if deemed necessary, such order shall state that the permit is immediately suspended, and any fill operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written request to the Health Director, shall be afforded a hearing as soon as possible, before the Health Director. Such request must be made within five days of receipt of notice. If the suspension is upheld, the aggrieved party may appeal as hereinafter provided. (Ord. 18149 §7; March 17, 2003: prior Ord. 15562 §33; May 14, 1990: P.C. §8.28.290; Ord. 14906 §11; June 13, 1988).

#### **8.32.340 Appeals.**

(a) Any application for the issuance of a license or permit under this chapter may be denied by the Health Director if the application is incomplete, or if the required fees are not tendered, or if the application does not comply with all requirements of this chapter and other applicable laws. Any license or permit issued under this chapter shall be subject to revocation or suspension by the Health Director for violation by the licensee or permittee of any of the provisions of this chapter or other ordinances of the City with respect to solid waste now in effect or hereinafter enacted, or for violation of any of the provisions or conditions of the license or permit or for failure to pay any required fee or tax imposed by this chapter. Notification of the order of suspension or revocation shall be made in writing and personally delivered or sent by registered or certified mail to the permittee or licensee. Such order shall not become effective until the expiration of the time for appeal. Pending the determination of such appeal by the Health Director, the operation of any order of suspension or revocation shall be stayed.

(b) The Health Director may suspend any license or permit for a specified period of time not exceeding 90 days when a condition constituting a violation of the provisions of this chapter exists for which a licensee or permittee must take corrective action. The order of suspension shall specify the period of suspension and the corrective action to be taken by the licensee or permittee and shall be served upon the licensee or permittee as provided in (a) above. The Health Director may revoke the license or permit of any licensee or permittee when such licensee or permittee has failed, after the period of suspension has expired, to take the required corrective action, or in any case where, in the opinion of the Health Director, revocation, and not suspension, is warranted in the first instance.

(c) Any person aggrieved by an order of suspension, revocation, or denial of any permit or license issued under the provisions of this chapter may, within five days of the receipt of written notice of the entry of such order, appeal to the Health Director for a hearing. The Health Director shall notify the appellant in writing of the date, time, and place of hearing before the Health Director, which date shall be no later than ten days from the filing of the appeal. The appeal hearing shall not be conducted according to the technical rules relating to evidence and witnesses, but the appellant shall have the right to:

- (1) Call and examine witnesses on any matter relevant to the issues of the hearing;
- (2) Introduce documentary and physical evidence;
- (3) Cross examine opposing witnesses on any matter relevant to the issues of the hearing; and
- (4) Rebut opposing evidence.

The Health Director shall review all information provided by the appellant. After the appeal hearing, the Health Director shall make written findings of fact and, based upon such findings, shall sustain, modify, or rescind the original order. A written report of the Health Director's decision shall be furnished to the appellant within ten days from the date that the appeal hearing is closed. The decision of the Health Director shall be final and binding upon the City and upon the appellant, and may be appealed as provided by state law but such decision shall not be stayed unless so ordered by the District Court. (Ord. 18149 §8; March 17, 2003; prior Ord. 15562 §34; May 14, 1990: P.C. §8.28.300; Ord. 14906 §12; June 13, 1988).