

## ORDINANCE NO. F-1974

### AN ORDINANCE AMENDING CHAPTER 54 "SOLID WASTE"

WHEREAS, the City of Wheaton, Illinois ("City") is an Illinois home rule municipality pursuant to provisions of Article VII, Section 6, of the Illinois Constitution, 1970, and as such the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City desires effective and economical solid waste collection; and

WHEREAS, the City desires an optional food-scrap collection program; and

WHEREAS, the City desires conformity between elements of this Chapter and those of Chapter 22 "Buildings and Building Regulations;" and

WHEREAS, the City has entered into an agreement with a residential waste hauler to provide garbage, organic waste, and recyclables collection to residents.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

**Section 1:** That Article I of Chapter 54, "In General" is hereby repealed and rescinded in its entirety and replaced with a new Article I, "In General & Residential"

### ARTICLE I. IN GENERAL AND RESIDENTIAL

#### **Sec. 54-1. 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:

*Construction debris* means those materials resulting from the alteration, construction, deconstruction, rehabilitation, or repair of any manmade physical structure including but not limited to houses, buildings, industrial or commercial facilities, and roadways but shall not include hazardous waste as defined by Federal or State law.

*Food scraps* means organic waste material generated from the handling or preparation of fruits, vegetables, bread, pasta, grains, nuts, egg shells, meat, bones, coffee grounds, coffee filters, tea bags, and food-soiled products that are biodegradable.

*Garbage* means household or kitchen waste, including food scraps, generated from the handling, preparation, cooking, and consumption of food, rejected or unused food or food residue. This term includes ordure generated by humans or animals.

*Garbage cart* means a wheeled and lidded plastic container that is used for the storage of garbage and non-recyclable rubbish. This cart allows for the automated collection of garbage by a contracted or licensed collection company. Garbage cart models have capacities of approximately thirty-five (35), sixty-five (65), or ninety-five (95) gallons.

*Organic cart* means a wheeled and lidded plastic container that is used for the storage of organic waste. This cart allows for the automated collection of garbage by a contracted or licensed collection company. Organic cart models have capacities of approximately thirty-five (35), sixty-five (65), or ninety-five (95) gallons.

*Organic waste* means food scraps and yard waste.

*Recyclables* means post-consumer products which can be converted into reusable objects as technology allows. This includes but is not limited to metals, glass, paper, cardboard, and plastics, which may be collected, separated or processed, and returned to the economic mainstream in the form of new materials or products.

*Recycling cart* means a wheeled and lidded plastic container that is used for the storage of recyclables and that allows for the automated collection of recyclables by a contracted or licensed collection company. Recycling carts have capacities of approximately thirty-five (35), sixty-five (65), or ninety-five (95) gallons.

*RFID system* means an automated, cart-based waste collection system in which radio frequency identification technology is used to monitor collection activity and charge residents for collection service on a pay-as-you-throw basis.

*Rubbish* means combustible and noncombustible waste materials, except garbage; the term shall include paper, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust, and other similar waste resulting from the operation of a household such as cloth/clothing, discarded toys and similar items. This term shall include recyclables and yard waste but shall not include hazardous waste as defined by Federal or State law.

*Sticker* means a pre-paid, one-time-use, adhesive, biodegradable label that residents attach to waste material to pay for the collection of excess garbage, organic waste, bulk items, white goods, e-waste, and other solid waste services that fall outside of the normal disposal of garbage and recyclables.

*Yard waste* means plant materials considered to be biodegradable and broken down by other organisms over a short period of time such as fruit and vegetable debris, lawn clippings, leaves, tree clippings, and other material accumulated as the result of the maintenance of lawns, shrubbery, vines, and trees.

#### **Sec. 54-2. Residential container specifications.**

(a) Garbage carts provided by a contracted or licensed collection company shall not have a capacity of more than 96 gallons. They shall be constructed with a close-fitting cover and shall be watertight, flytight, rodentproof, and odor proof.

(b) Recycling carts provided by a contracted or licensed collection company shall not have a capacity of more than 96 gallons. They shall be constructed with a close-fitting cover and shall be watertight, flytight, rodentproof, and odor proof.

(c) Organic carts offered by a contracted or licensed collection company shall not have a capacity of more than 96 gallons. They shall be constructed with a close-fitting cover and shall be watertight, flytight, rodentproof, and odor proof.

(d) Homeowner-supplied garbage containers shall be either a 33-gallon capacity plastic bag or a maximum 35-gallon capacity metal or plastic can with a close-fitting cover, and shall be watertight, flytight, rodentproof, and odorproof. Each container shall not exceed a total weight of 50 pounds when filled.

(e) Homeowner-supplied organic waste containers shall be either a 35-gallon maximum capacity biodegradable paper bag or a 35-gallon maximum capacity metal or plastic container with a close-fitting cover, and shall be watertight, flytight, rodentproof, and odorproof. Each bag or container shall not exceed a total weight of 50 pounds when filled.

**Sec. 54-3. Requirement to provide receptacles.**

At all times, it shall be the duty of every owner or occupant of every house, building, flat, apartment, or any place of business in the city where people reside, board or lodge, work, or where food is prepared or served, to maintain in good order and repair a container for the deposit of garbage.

**Sec. 54-4. Depositing waste on the property of another.**

No person shall deposit or cause to be deposited garbage, rubbish, recyclable, organic, or yard waste materials on the property of another, including deposit inside containers, dumpsters, trash cans, bags, carts, or barrels, intended for the deposit of those items by occupants of the property.

**Sec. 54-5. Storing or placing of garbage, organic waste, recyclables on parkway for collection.**

(a) Notwithstanding any other provision of this Code, garbage, organic waste, recyclables, and similar materials may be placed on the parkways within the city only to facilitate their removal by a solid waste company. Any garbage, organic waste, or recyclables placed on the parkway shall be stored in containers or otherwise appropriately secured to ensure that debris or refuse is not scattered by weather, animals, or other such causes.

(b) Garbage, organic waste, and recyclables stored in containers or are otherwise appropriately secured may be placed on the parkway after 6:00 p.m. on the evening preceding solid waste collection service, and emptied containers, in addition to anything not collected by the solid waste hauler, shall be removed from the parkway by 7:00 p.m. on the day of solid waste collection. After arrangements are made to collect anything missed by the solid waste hauler, these items may return to the parkway after 6:00 p.m. on the evening preceding the planned date of collection.

**Sec. 54-6. Unlawful deposits.**

It shall be unlawful for any person to deposit anywhere in the city any uncovered piles of garbage, rubbish, organic waste, or other waste, except that which may be placed in a compost pile or curbside organics container in accordance with the provisions of this chapter.

**Sec. 54-7. Windblown deposits.**

It shall be unlawful for any person to deposit or place any garbage, organic waste, or recyclables in such a place or container so that it can be blown about by ordinary winds.

**Sec. 54-8. Composting and compost piles.**

(a) Yard waste materials may be placed in a compost pile, provided that such materials are placed in such a way as not to allow them to be blown by winds.

(b) The depositing of garbage, pet waste, meat scraps, or other materials that may attract animals or vermin to the compost pile or which may provide an obnoxious odor shall be prohibited. A compost pile shall not be placed in any required front yard as defined by the city zoning ordinance, and shall be set back a minimum of three feet from the side yard lot line, set back a minimum of five feet from any rear lot line, and shall not be located less than 30 feet from any neighboring residential dwelling structure. In no event shall a compost pile be located in any side or rear yard drainage or utility easement. A compost pile shall be no more than five feet in height, and shall not exceed a maximum ground or base area of 100 square feet.

**Sec. 54-9. Sale of solid waste stickers, requirements.**

(a) No individual or business shall purchase stickers for resale from other than the city's contractual waste hauler. Furthermore, it shall be unlawful for a business to sell stickers to another business for resale.

(b) An individual or business is prohibited from selling stickers for an amount greater than specified in the most recent waste collection and disposal agreement between the city and waste hauler.

(c) It shall be unlawful for businesses to require individuals to purchase stickers in multiple allotments.

(d) Any person, corporation, partnership or other legal entity whose employee violates subsections (a), (b) or (c) of this section shall forfeit the right to resell stickers for a period of time specified by the city manager.

**Sec. 54-10. Theft of stickers.**

It shall be unlawful for any person to steal a sticker.

**Sec. 54-11. Tampering with RFID system.**

It shall be unlawful for any person to tamper with any piece of hardware, software, or cart that is owned or operated by a waste hauler as part of an RFID system.

**Secs. 54-12—54-40. Reserved.**

**Section 2:** That Article II of Chapter 54, "Collection and Disposal" is hereby repealed and rescinded in its entirety and replaced with a new Article II, "Contractors, Collection and Disposal"

**ARTICLE II. CONTRACTORS, COLLECTION AND DISPOSAL**

**Sec. 54-41. Contract or license required.**

No person shall engage in the business of solid waste collection or disposal from any residential, commercial, industrial, or institutional location within the city without first obtaining a contract or license from the city council. The solid waste collection and disposal services from which a contract or license is required includes the collection and disposal of garbage, organic waste, and/or recyclables from all premises within the city; however, such a contract or license shall not be required for the collection and disposal of liquid and industrial wastes for which specialized equipment or handling is necessary.

**Sec. 54-42. Solid waste collection and disposal contract.**

A company desiring to collect garbage, organic waste, and/or recyclables from all single-family and multifamily residential living units within the city which receive curbside garbage collection shall not engage in the business of garbage, organic waste, and/or recyclables collection without obtaining a contract therefor. The number of contracts authorized under this classification shall not exceed one in number, and the specific provisions of such contract shall be established by the city council, including contract fee.

**Sec. 54-43. Multifamily solid waste collection and disposal license.**

A company desiring to collect garbage, organic waste, and recyclables from Multifamily Properties shall not engage in the business of garbage, organic waste, and recyclables collection without obtaining a license therefor.

- (1) "Multifamily Properties" is defined for the purposes of this section as properties with more than one residential living unit which do not receive individual or curbside collection and are part of a larger complex which are serviced by shared garbage dumpsters/containers.
- (2) All licenses shall be subject to approval by the City Council.
- (3) The term of licenses which may be issued by the city council under this classification shall be for a one-year period beginning July 1 and ending June 30.
- (4) The license shall authorize a company to collect garbage, organic waste, and recyclables from multifamily properties within the city.
  - a. A company issued a multifamily solid waste collection and disposal license shall submit and operate a recyclable program for multifamily property owners which includes, but is not limited to, the following:
    1. Proper site and design criteria for collection areas;
    2. Collection process;
    3. Container specifications;
    4. Data collection and reporting methods;
    5. Promotional and educational campaign materials; and
    6. Administration.

Recycling collection areas shall be conveniently located, screened from view, and maintained in a clean, sanitary and litter-free manner within common areas in or near the buildings.

- b. A multifamily solid waste collection and disposal licensee shall submit on a quarterly basis a report to the city that contains the following:
  1. The weight of recyclables, refuse and organic waste collected from each multifamily property; and

2. A summary of multifamily recycling services that includes, but is not limited to, frequency of collection, method of collection, and the name and location of the processing facility for recyclable materials.

Reports shall be due no later than 15 days after the close of the quarter (first quarter, July 1 to September 30, due October 15; second quarter, October 1 to December 31, due January 15; third quarter, January 1 to March 31, due April 15; and fourth quarter, April 1 to June 30, due July 15). The city shall further have the right from time to time to require other data or information relative to the multifamily refuse, organic waste, and recycling program.

- c. All multifamily solid waste collection and disposal licensees shall provide to the city on an annual basis a customer list of multifamily properties that are being serviced for collection by the licensee. The licensee's customer list shall include the following:
  1. Name and address of multifamily property owner or management company;
  2. Name of multifamily property, if applicable; and
  3. Address of multifamily property.

A current multifamily customer list shall be due no later than July 15. The information provided to the city under this section shall be considered exempt from the Freedom of Information Act disclosure by the city upon assertion as to its proprietary nature by the licensee.

- d. All licensees shall provide the following services to all multifamily properties serviced by the licensee:
    1. Collection of all recyclables and containers for recycling.
    2. At least semi-annually, a distribution of promotional and educational materials to all tenants and owners of the multifamily properties served by the licensee; licensees shall submit copies of all promotional and educational materials to the city.
- (5) The fee for this license shall be in accordance with appendix B of this Code.
  - (6) Licensees may apply for a waiver from the requirements of the multifamily solid waste collection and disposal license provisions for a particular multifamily property by demonstrating that collection of recyclables would be an undue burden.
    - a. All waiver requests shall be made in writing and addressed to the city clerk. The city clerk may consult with the environmental improvement commission and others as deemed appropriate when considering waiver requests. All approvals or denials of waiver requests shall be made within ten days from the date the request is duly filed. Any decision to deny such a waiver request shall be in writing. The following standards will be used when considering whether to grant a waiver request:
      1. Site limitations;

2. Financial hardships; or
  3. Other means of collection provided by multifamily property owner.
- b. The city manager shall hear all appeals on the denial of a waiver request by the city clerk. A written appeal shall be filed in the city manager's office within 21 days after the date of denial of the waiver request. The appealing party shall submit what documentation it desires to have the city manager consider with the written appeal; and the city manager shall render a decision within 14 days of the filing of the written appeal under this section.

**Sec. 54-44. Commercial, office, industrial, and institutional solid waste collection and disposal license.**

A company desiring to collect garbage, organic waste, and/or recyclables from commercial, office, industrial, and institutional properties within the city shall not engage in the business of garbage, organic waste, and/or recyclables collection without obtaining a license therefore.

- (1) All licenses shall be subject to approval by the City Council.
- (2) The term of the licenses which may be issued by the city council under this classification shall be for a one-year period beginning July 1 and ending June 30.
- (3) The fee for this license shall be in accordance with appendix B of this Code.
- (4) If requested by the owner of a commercial, office, industrial or institutional property, the licensee shall provide collection and recycling services as agreed to by the owner of the commercial, office, industrial or institutional property and the licensee.
  - a. A company desiring a commercial, office, industrial and institutional solid waste collection and disposal license shall submit to the city an acceptable plan for the establishment and operation of a recycling program for commercial, office, industrial and institutional property owners. An acceptable recycling plan shall include, but not be limited to, the following:
    1. Proper site and design criteria for collection areas;
    2. Collection process;
    3. Container specifications;
    4. Data collection and reporting methods;
    5. Promotional and educational campaign materials; and
    6. Administration.

Recycling collection areas shall be conveniently located, screened from view, and maintained in a clean, sanitary and litter-free manner within common areas in or near the buildings.

- b. A commercial, office, industrial, and institutional solid waste collection and disposal licensee shall submit on a quarterly basis a report to the city that contains the following:
1. The weight of recyclables, garbage, and organic waste collected from each commercial, office, industrial, and institutional property; and
  2. A summary of recycling services provided to those commercial, office, industrial and institutional properties having a recycling program that includes, but is not limited to, a description of the items collected, frequency of collection, method of collection, method of disposal, and the name and location of processing facility for recyclables.

Reports shall be due no later than 15 days after the close of the quarter (first quarter, July 1 to September 30, due October 15; second quarter, October 1 to December 31, due January 15; third quarter, January 1 to March 31, due April 15, and fourth quarter, April 1 to June 30, due July 15). The city shall further have the right from time to time to require other data or information relative to the commercial, office, industrial and institutional refuse, yard waste, and recycling program.

- c. All commercial, office, industrial and institutional solid waste collection and disposal licensees shall provide to the city on an annual basis a customer list of commercial, office, industrial and institutional properties that are being serviced for collection by the licensee. The licensee's customer list shall include the following:
1. Name and address of commercial, office, industrial or institutional property owner or building management company;
  2. Name of commercial, office, industrial or institutional property;
  3. Address of commercial, office, industrial or institutional property; and
  4. An indication of which commercial, office, industrial and institutional customers are participating in a recycling program.

A current commercial, office, industrial and institutional customer list shall be due no later than July 15. The information provided to the city under this section shall be considered exempt from the Freedom of Information Act disclosure by the city upon assertion as to its proprietary nature by the licensee.

- d. All licensees shall distribute promotional and educational materials at least semi-annually to all commercial, office, industrial and institutional properties serviced by the licensee; licensees shall submit copies of all promotional and educational materials to the city.

**Sec. 54-45. Collection schedule.**

(a) Residential collection service in all areas of the city shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. Collection service in residential areas of the city may be extended to Saturdays during those weeks which contain the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.



(b) Nonresidential collection service in all areas of the city shall be limited to Monday through Friday from 6:00 a.m. to 6:00 p.m.

**Sec. 54-46. Container lid requirements**

(a) Any container used for multifamily, commercial, office, industrial, institutional, or other solid waste collection within the city shall have a close fitting and functional lid or cover attached.

(b) Container lids and covers shall be closed when a container is not in use. A container is considered in use only when it is being contemporaneously filled or emptied.

**Sec. 54-47. Collection of recyclables without authorization prohibited.**

It shall be unlawful for any person to engage in the business of collection of recyclables from any residential curbside location within the city unless authorized by the city council.

**Sec. 54-48. City's right to award exclusive contract for solid waste collection.**

The city council reserves the right to establish a comprehensive solid waste collection and disposal service, to be operated by the city or by a contractor selected by the city under an exclusive contract to provide for residential collection of garbage, organic waste, and/or recyclables, and to provide for the separation of certain designated recyclables from normal household garbage and placement of such materials in specially designated containers.

**Sec. 54-49. Application for license—Required.**

Applications for a solid waste collection and disposal license shall be made to the city clerk on the form provided by the city clerk no later than June 1 of each year. The city clerk shall refer all applications for solid waste collection and disposal licenses to the city council.

**Sec. 54-50. Same—Insurance.**

Each applicant for a solid waste collection and disposal license shall, before the issuance of such license, file with the city manager a policy or certificate of insurance, issued by a solvent insurance company authorized to do business in the state, insuring the licensee or owner of such solid waste company against liability for death of any person resulting from the operation of the solid waste collection and disposal service. Such policy or certificate shall cover the entire period for which the license is issued. Such policy of insurance shall cover all of the company's motor vehicles that operate in the city and shall at a minimum include combined general liability coverage for personal injury and property damage in the sum of \$3,000,000.00, automobile liability in the sum of \$500,000.00, and evidence of workers' compensation insurance.

**Sec. 54-51. Construction, maintenance of vehicles; inspection.**

All carts and vehicles which shall be used in removing, transporting, and disposing of garbage, organic waste, and/or recyclables shall be designed and maintained so as to prevent leaking and blowing of garbage when transported. All equipment shall be maintained and operated in accordance with all applicable federal and state laws and city ordinances. In the discretion of the city, the city may inspect the contractor's equipment solely for purposes of determining compliance with the provisions of this article.

**Sec. 54-52. Disposal or storage of garbage within city.**

It shall be unlawful for any licensed solid waste company to dispose of or store any garbage in any place within the city limits or within one mile therefrom, except with the permission of the city council.

**Secs. 54-53—54-80. Reserved.**

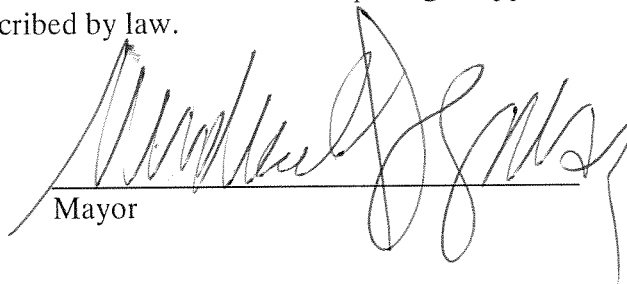
**Section 3:** That Sec. 54-81, "Failure to remove prohibited" is hereby repealed and rescinded in its entirety and replaced with a new Sec. 54-81, "Failure to remove prohibited"

**Sec. 54-81. Failure to remove prohibited.**


It shall be unlawful for any person who is the owner of private property upon which there exists an accumulation of garbage, rubbish, or construction debris, so as to constitute a danger to public health, to fail to remove such garbage, rubbish, or construction debris after receipt of 48 hours notice from the director of building and code enforcement.

**Section 4:** All ordinances or parts of ordinances in conflict with these provisions are hereby repealed.

**Section 5:** This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Clerk

Ayes: Roll Call Vote:  
Councilman Scalzo  
Councilman Suess  
Councilwoman Fitch  
Councilman Rutledge  
Councilman Prendiville  
Mayor Gresk  
Councilman Saline

Nays: None  
Absent: None

Motion Carried Unanimously

Passed: November 21, 2016  
Published: November 22, 2016