

Ordinance No. 00436

[City Council meeting minutes of Jan 16 2007](#)

ORDINANCE NO. 436

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Lakewood Municipal Code sections 13.06.010, 13.06.300, 13.06.310, 13.06.340 and 13.06.370, relating to the permits and licenses necessary for recyclables transporters and recycling container placement

WHEREAS, in Ordinance No. 51, as adopted in 1996, the City Council of the City of Lakewood established a system for the handling of solid waste pursuant to its obligation to protect the public health, safety and welfare; and,

WHEREAS, in Ordinance No. 337, as adopted in 2004, in furtherance of the City's responsibility for protecting the public safety and health, the City Council of the City of Lakewood created standards of operation for private companies performing recycling collection services within the City; and,

WHEREAS, in compliance with the state legislative priorities pronounced in RCW 70.95.010, the City desires to encourage recycling, to preserve natural resources, and to effectively implement waste reduction and source separation of waste; and,

WHEREAS, the City is responsible for ensuring compliance with the standards it has established for solid waste and recycling services, which necessarily will include costs associated with inspections, enforcement and administrative procedures and proceedings in support of this purpose; and,

WHEREAS, the City is responsible for improvements and maintenance to the City's streets and transportation system; and,

WHEREAS, the City Council recognizes that the City's solid waste contractor uses the City's streets and is taxed to provide a source of revenue for the City's transportation needs; and,

WHEREAS, the City Council finds that transporters of recyclables also use the City's street and transportation system; and,

WHEREAS, it is appropriate for a system of regulation to include fees for permits and licenses related to recyclables transporting and recycling container placement to recover the costs of street and transportation system maintenance and improvements as well as the administrative costs of enforcing said regulations; and,

WHEREAS, to ensure that companies claiming to be recyclers do not engage in unauthorized and unlawful solid waste collection, transportation and dumping.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as follows:

Section 1. That section 13.06.010 of the Lakewood Municipal Code be, and the same is hereby amended, as follows:

13.06.010 - Definitions

For the purposes of this ordinance, certain words and phrases are defined as follows:

- A. "Alley" means a strip of land dedicated to public use for access to the rear of properties. Such alleys, to be used for the purpose of refuse collection, must be at least twenty feet wide and open to a public street at each end, or otherwise as approved by the public works director in accordance with the purposes of this Chapter.
- B. "Automated Carts" means a cart with a tight fitting lid designed to be picked up and emptied by mechanical means.
- C. "Automated Service" means garbage or recycling collection services where specific containers or carts are provided that are emptied into a garbage truck by mechanical means controlled by the operator.
- D. "Bale" means material compressed by machine and securely tarped or banded.
- E. "Bulk containerized services" means use of drop boxes in excess of ten cubic yards in size as approved by the public works director.
- F. "Bulky Materials" means empty carriers, cartons, boxes, crates, etc., or materials offered for disposal, all of which may be readily handled without shoveling.
- G. "Can" also referred to as a refuse container, means a can must be made of durable, corrosion-resistant, nonabsorbent material, watertight, with a close fitting cover and two handles. Size to exceed 20 gallons but not to exceed 32 gallons or 4 cubic feet. A can cannot weigh more than 65 pounds when filled nor more than 12 pounds when empty.
- H. "Cart" means a wheeled plastic container. If supplied by the customer, it must be compatible with the contractor's equipment. Cart may also be referred to as a toter. Size and type shall be as defined in the sections identifying rates.
- I. "Charge" means a set flat fee for performing a service or the result of multiplying a rate for a unit times the number of units transported.
- J. "City's Contractor" means the private company performing municipal Solid Waste collection and transportation services under written agreement with the City.
- K. "Commercial account" means any group of dwelling units in excess of two, or places of business providing goods or services.
- L. "Compacted Material" means material which has been compressed by any mechanical device either before or after it is placed in the receptacle handled by the contractor.
- M. "Compactor container" refers to use of bulk containerized service where garbage is mechanically compressed into a smaller volume with greater density.
- N. "Compactor Disconnect/Reconnect Charge" means a flat fee established by the solid waste collection company for the service of disconnecting a compactor from a drop box or container prior to taking it to be dumped and then reconnecting the compactor when the drop box or container is returned to the customer's site.
- O. "Container" means a detachable container which is left at a customer's premises and emptied into the contractor's truck and is lifted by mechanical means.
- P. "Containerized service" means service and equipment approved by the public works director, wherein the contractor provides a vehicle equipped for mechanical handling of containers with casters up to ten cubic yards. Such containers shall be provided by the contractor.

Q. "Drop Box" means a container which is placed on the contractor's truck by mechanical means, hauled to a disposal site and returned to customer's premises.

R. "DRUM" means a metal container of approximately 50 gallon capacity, generally used for oils or solvents. Maximum weight not to exceed 75 pounds when filled.

S. "Garbage" means all accumulations of animal, fruit, or vegetable matter which attend the preparation, use, cooking, dealing in, or storage of meat, fish, fowl, fruits, or vegetables and containers originally used for foodstuffs, yard debris such as tree limbs, grass clippings, leaves, weeds, etc. For the purposes hereof, the terms "garbage" and "refuse" shall be synonymous.

T. "Gate Charge" means a flat fee charged for opening, unlocking or closing gates in order to pickup solid waste.

U. "Licensed contractor" means a company licensed to commercially remove garbage within the City, and is also referred to at times in this Chapter as "licensee" or "contractor," and includes all employees.

V. "Litter Receptacle" means a container not over 60 gallon capacity generally placed in shopping centers and along streets or highways for litter. Maximum weight not to exceed 75 pounds when filled.

W. "Loose Material" means material not set out in bags or containers. Also includes materials which must be shoveled.

X. "Mini-Can" means a can made of durable, corrosion-resistant, nonabsorbent material, watertight with a close fitting cover. Size not to exceed 20 gallons, nor weight to exceed 35 pounds.

Y. "Nonconforming items" means all refuse items placed out for collection which do not constitute regular residential or commercial garbage and which by size, weight or unwieldiness pose increased difficulty for garbage collection services. Examples of such non-conforming items are large bulky items, including tree limbs and stumps over four inches in diameter, furniture and appliances, concrete, building materials, tires, etc.

Z. "Packer" means a device or vehicle specially designed to pack loose materials.

AA. "Pass through fees" are fees that are billed directly to the customer without markup or markdown by the solid waste collection company.

BB. "Permanent Service" is, in conjunction with containers and drop boxes, when service is provided for a period of more than ninety days.

CC. ~~Permittee~~ means a person or entity who private company performing transportation that collects and transports Recyclables under the authority of a permit and/or license issued under this Chapter and in compliance with RCW Chapter 70.95, and all permittees must obtain a permit pursuant to Section 13.06.300 of this Chapter.

DD. "Rate" means a price per unit or per service. A rate is multiplied times the number of units transported, or the number of times a service is performed to determine a freight charge.

EE. "Recyclables" means only those materials that are source-separated from and uncontaminated by Solid Waste by the generator for transformation or remanufacturing into usable or marketable materials for use other than landfill disposal or incineration.

FF. "Recycling Cart or Container" means a cart, ~~or~~ container or receptacle of any size specifically designed, intended or designated for collection of recyclables.

GG. "Residential account" means any dwelling unit or group of dwelling units not exceeding two in number, used exclusively as a place of residence.

HH. "Solid Waste" means all residential and nonresidential putrescible and nonputrescible solid and semisolid waste generated within the City, excluding Recyclables. Solid Waste includes, but is not limited to, garbage, refuse, rubbish, demolition and construction waste, recyclable materials collected from residential locations, and all residual waste remaining after recycling.

II. "Special Pickup" means a pickup requested by the customer at a time other than the regularly scheduled pickup time, but which does not involve the dispatch of a truck. If a special dispatch is required, time rates as shown in Section 13.06.170, Paragraphs I and J will apply.

JJ. "Temporary Service" means rates for temporary service apply only when service is required for a period of 90 days or less in conjunction with containers and drop boxes. Temporary service rates are not to be used for the first 90 days of service when the customer requests, and the carrier provides, service for more than 90 days.

KK. "Toter" is a wheeled plastic container. If supplied by the customer, it must be compatible with the contractor's equipment. May also be referred to as a cart. Type and size shall be as defined in the sections identifying rates.

LL. "Transporter" means a ~~private, for-profit company~~ person or entity offering services consisting of collection and/or transportation of Recyclables from generators within the City of Lakewood. For the purposes of this section, transporter has the same meaning as contained in RCW 70.95.400, as that section does now exist or as hereinafter may be amended. A lawful transporter is one who is in compliance with or specifically exempted from compliance with LMC section 13.06.300 and RCW section 70.95.400 prior to collecting and transporting recyclables within the City of Lakewood.

MM. "Trash" means weeds and grasses and waste materials except rocks, concrete, bricks, dirt, plaster and similar building materials.

II. "Unit" means a garbage or refuse receptacle described as follows:

(1) a can made of durable, corrosion-resistant, nonabsorbent material, watertight, with a close fitting cover and two handles. Size to exceed 20 gallons but not to exceed 32 gallons or 4 cubic feet. Cannot weigh more than 65 pounds when filled or more than 12 pounds when empty.

(2) Where agreeable between the contractor and a customer (and where allowable under local ordinance) a box, carton, cardboard barrel or other suitable container may be substituted for a garbage can, for single pickup which includes the container, if it meets the size and weight limits shown in paragraph (1) above.

NN. "Unlatching Charge" is another term for gate charge; a flat fee imposed by the contractor when its personnel must unlatch a gate or door to perform pickup service.

OO. "Unlocking Fee" means a flat fee imposed by the contractor when its personnel must unlock padlocks or other locking devices to perform pickup service.

PP. "Yardwaste Cart or Container" means a cart or container specifically designed or designated for the collection of yardwaste.

Section 2. That section 13.06.300 of the Lakewood Municipal Code be, and the same is hereby amended, as follows:

13.06.300 - Transporter permit required

A. Unless specifically and statutorily exempted from compliance, N no Transporter other than the City's Contractor shall collect Recyclables from generators within the City without having obtained a permit from the City of Lakewood.

B. Permits shall be issued for ~~the~~ each calendar year ~~beginning~~ and the permit shall be valid from January 1 ~~and ending~~ through December 31 of the year for which it was issued. A permit or renewal fee shall be paid for each calendar year, and each application for a permit or renewal shall include the full amount of the annual fee for the year for which the permit is sought regardless of when the fee is paid. A permit is not required of the City's Contractor in the transport of Recyclables.

~~B~~ C. Nothing in this Chapter shall prevent the operation of a recycling company or nonprofit entity collecting and transporting Recyclables

from a buy-back center, drop box, or from a commercial or industrial generator of Recyclables within the City, or under agreement with the City's Contractor, so long as a Permit is obtained, appropriate Fees paid and operations are otherwise in compliance with this Chapter.

€. D. Nothing in this Chapter shall prevent the operation of a commercial or industrial generator of commercial Recyclables, in selling, conveying, or arranging for transportation of Recyclables to a recycler for reuse or reclamation, so long as a permit is obtained, appropriate fees paid, and operations are otherwise in compliance with this Chapter.

Đ. E. Any Transporter who collects Recyclables within the City without a permit shall be subject to a civil penalty of up to \$500 per day.

Section 3. That section 13.06.310 of the Lakewood Municipal Code be, and the same is hereby amended, as follows:

13.06.310 - Transporter permit application

Applications for permits or the renewal thereof shall be made to the Public Works Department on forms provided by it, no later than the deadline stated on the form. The application shall include:

1. The name, street and mailing address, and business telephone number of the applicant;
2. Applicant business ownership information, responsible official and contact person;
3. Business license number;
4. Proof of liability insurance;
5. An agreement to indemnify and hold harmless the city and its officers, agents, and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any negligent act or omission of the Permittee, its officers, agents, and employees, or any of them relating to or arising out of the performance of this Permit; and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and the Permittee and their respective officers, agents, and employees, or any of them, the Permittee shall satisfy the same to the extent that such judgment was due to the Permittee's negligent acts or omissions;
6. Any other relevant information deemed necessary by the City Manager or his designee, including proof of compliance with state or federal regulations;
7. An application fee of \$1,000 or a renewal fee of \$1,000; and
8. An agreement to abide by the terms of this Ordinance.

Section 4. That section 13.06.340 of the Lakewood Municipal Code be, and the same is hereby amended, as follows:

13.06.340 ? Recyclables Container or Cart Location Registration and Fee Required

A. After obtaining a Transporter permit, a Transporter may Prior to placing any recycling cart or container for collecting Recyclables at any lawful location within the City, Within thirty (30) days after placing a recycling cart or container, the Transporter Permittee shall register each container being placed in service with notify the Public Works Department in writing of the address and location of each cart or container and shall pay a location registration fee in the amount of one hundred dollars (\$100) ~~two dollars (\$2.00)~~ per cart or container and per location, cubic yard of capacity. The City shall issue Permittee a registration number to be affixed to the container prior to being placed in service. A recycling cart or container placed in a registered location may be removed or replaced with a different cart or container at the Transporter's discretion.

B. The Permittee Transporter shall clearly identify all of its recycling collection carts or containers including compactors, by displaying the City's registration number, the Permittee Transporter's name, and the Permittee's telephone number prominently and conspicuously on at least the portion of the container that is visible when the container is being used to store materials. The Permittee Transporter shall mark every cart, container or receptacle of any size intended for the collection of recyclables of five cubic yards or greater capacity using an identification system that gives each container a unique number or number/letter combination to enable tracking the location of carts and containers that are found placed in a public right-of-way.

C. Registration of a location for placing a recyclables cart or container and payment of the fee therefore shall authorize the Transporter to have a cart or container in that location for one year, beginning January 1 and ending December 31 of the calendar year for which the location fee was paid and the permit issued. A cart or container location registration must be renewed each year thereafter and a renewal fee of one hundred dollars (\$100) must be paid in order to renew the location registration. The registration or renewal fee must be paid in full for the year in which the location is registered regardless of when during the year the fee is paid or the location registered. Cart or container location registration fees are not transferable to a new location or to a different business entity, but must be paid for each location at which a cart or container is placed and for each distinct entity that places a cart or container.

D. Any business that places or maintains a recyclables cart, container or receptacle of any size within the City of Lakewood without first obtaining a Transporter's permit and registering the location with the City Public Works Department and paying the application registration or renewal fee shall be subject to a civil penalty of up to five hundred dollars (\$500) per day.

Section 5. That section 13.06.370 of the Lakewood Municipal Code be, and the same is hereby amended, as follows:

13.06.370 - Revocation and Denial of Permit Notice and Orders

The Public Works Director may revoke or deny renewal of a permit to any Permittee who has accumulated more than three (3) violations within a 365-day period. The City Manager, or designee thereof, is authorized to adopt and enforce rules and regulations not inconsistent with the provisions of this ordinance and may condition, revoke or deny any license or permit issued under the Chapter. Such administrative actions shall be conducted through issuance and service of notice and orders as referenced under the City's General Business License Regulations as stated in LMC Title 5. Appeals of administrative decisions or actions related to this title shall be governed by the procedures of LMC 5.02.190.

Section 6. Severability. If any sections, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property or circumstance, such invalidity or unconstitutionality or inapplicability shall not effect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance or its application to any other person, property or circumstance.

Section 7. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication of this Ordinance or a summary thereof in the official newspaper of the City as provided by law.

ADOPTED by the City Council this 16th day of January, 2007.

Dr. Claudia B. Thomas, Mayor

Attest:

Alice. M. Bush, MMC, City Clerk

Approved as to form:

Heidi Ann Wachter, City Attorney