

CHAPTER 6-5 GARBAGE PROVISIONS

6-5-1

DEFINITIONS.

For the purposes of this ordinance, the following terms shall have the meanings indicated, unless the context clearly indicates otherwise.

CHIEF ELECTED OFFICIAL: The Mayor, authorized under South Dakota Codified Laws as the chief elected or presiding official of the Governing Board of the City of Brandon, SD.

COMMERCIAL GARBAGE HAULER: Any individual, corporation, organization or business that collects or transports any type of solid waste for other parties. Entities which transport their own solid waste, and entities which transport waste solely for reuse or recycling but not for disposal, are not included in this definition.

COMMERCIAL GARBAGE HAULER LICENSE OR LICENSE: A license issued by the City of Brandon, S.D. under the terms of this ordinance.

GOVERNING BOARD: The City Council, authorized under South Dakota Codified Laws as the governing body of the City of Brandon, S.D.

LICENSE HOLDER OR LICENSEE: Any commercial garbage hauler which holds a Commercial Garbage Hauler License.

RATE STRUCTURE: The structure of charges made by a Commercial Garbage Hauler to its customers. This term is not intended to include the level of the rates charged; rather, it is intended to include the overall structure of the rates charged. This term is intended to refer to the relationship between rates charged by a particular hauler (a) to different customers, and/or (b) for different volumes of waste, and/or (c) for different types of waste.

SDCL: South Dakota Codified Law.

SOLID WASTE (SDCL 34A-6-1.3): Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities, but does not include mining waste in connection with a mine permitted under Title 45, hazardous waste as defined under Chapter 34A-11, solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under Section 402 of the federal Water Pollution Control Act, as amended to January, 1989, or source, special nuclear or by-product material as defined by the atomic Energy Act of 1954, as amended to January 1, 1989.

VOLUME BASED: The property of providing financial incentives to encourage source reduction, re-use, and recycling. Specifically, this term refers to garbage collection rate structures which provide for user fees which increase as the volume of waste collected increases.

Legislative History:
Ordinance No. 232, 2/14/95

6-5-2

LICENSE REQUIRED.

It shall be unlawful for a commercial garbage hauler to use the streets or roads within the City of Brandon for the collection, removal or disposal of any solid waste, without first having obtained a Commercial Garbage Hauler License from the City of Brandon, S.D.

Legislative History:
Ordinance No. 232, 2/14/95

6-5-3

APPLICATION FOR LICENSE.

The form for application for a Commercial Garbage Hauler License and renewal thereof, as required by the provisions of this ordinance, shall be available from the Municipal Finance Officer. Upon completion of the application, the applicant shall return it to the Municipal Finance Officer for review. For an application to be considered complete, the applicant must also submit:

- A.. Proof of certification by the Sioux Falls Health Department that the applicant will be allowed to deposit solid waste collected from the City of Brandon, S.D. in the Sioux Falls Sanitary Landfill;
- A. Certificate of insurance coverage, as described in the Performance Standards (Section 6-5-8, E);
- B. Proposed rate structure, as described in the Performance Standards (Section 6-5-8, G);
- C. Payment of an application fee in accordance with the fee schedule determined annually by the City Council by adoption of a resolution;
- D. A written description of the recycling program offered by the hauler to its customers.

Legislative History:
Ordinance No. 232, 2/14/95

6-5-4

APPROVAL OF APPLICATION BY GOVERNING BODY REQUIRED PRIOR TO LICENSURE.

Before any Commercial Garbage Hauler License shall be issued, renewed or transferred under the provisions of this ordinance, the Governing Board must approve the Application for License. The Governing Board may required the applicant to furnish additional information related to the provisions of this ordinance, prior to approval of an application. Upon approval of the application, the Municipal Finance Officer shall issue a Commercial Garbage hauler License to the applicant. Once issued, licenses shall be conditional upon the license holder complying with the Performance Standards in Section 6-5-8 of this ordinance.

Legislative History:
Ordinance No. 232, 2/14/95

6-5-6

RENEWAL LICENSE.

A holder of a currently valid Commercial Garbage Hauler License may apply for renewal of such a license in the same manner of application described in Section 3 of this ordinance.

Legislative History:

Ordinance No. 232, 2/14/95

6-5-7

TRANSFER OF LICENSE.

A holder of a currently valid Commercial Garbage Hauler License, in conjunction with a party wishing to receive such a license, may apply for transfer of such a license in the same manner of application described in Section 6-5-3 of this ordinance. In such cases, the payment of the applicable fee shall be the responsibility of the party to receive the transferred license. For an application for a transfer to be considered complete, the signatures of an authorized representative from each party must be present on the application form.

Legislative History:

Ordinance No. 232, 2/14/95

6-5-8

PERFORMANCE STANDARDS.

For any Commercial Garbage Hauler License to be effective, the holder of such license shall comply with the following performance standards:

- A. Random Load Inspections. No holder of a Commercial Garbage Hauler License shall violate any rule or policy established by the City of Sioux Falls for the Sioux Falls Sanitary Landfill. All vehicles transporting solid waste to the Sioux Falls Sanitary Landfill and licensed under this ordinance shall be subject to random load inspections performed by the Sioux Falls Health Department. License holders should be aware that the Sioux Falls Health Department will forward reports of landfill rule violations to the City of Brandon, S.D.
- B. Minimum Design Requirements for Equipment. All solid waste collection or transportation equipment operated by license holders are required to meet the following standards:
 1. Vehicles shall be water tight;
 2. Vehicles shall be covered, with no openings which would allow the contents to escape;
 3. Vehicle boxes shall be of all metal construction, and shall have metal doors which shall be in a closed position whenever the vehicle is in motion;
 4. Containers must be attached or bolted to the frame when in transport;
 5. All vehicles and containers must be manufactured or designed for hauling solid waste;
 6. Vehicles and containers shall be thoroughly washed as directed by the Governing Board of Brandon, S.D. or the Sioux Falls Health Department, as may be necessary to keep vehicles and containers in proper

sanitary condition;

7. Vehicles shall be loaded so that solid waste does not spill out, fall out, blow out or otherwise leave the vehicle or container while it is collecting or transporting solid waste.

C. Frequency of Collection.

Each holder of a Commercial Garbage Hauler License shall collect solid waste from its customers at least once per week. In cases where a customer of a license holder produces a type or quantity of solid waste which requires more frequent collection to protect public health, sanitation or safety, the Governing Board may direct the license holder to collect solid waste from that particular customer on a more frequent basis.

D. Recycling Programs Required.

Each holder of a Commercial Garbage Hauler License shall provide a program for collection of recyclable materials. Each such program shall include collection of recyclable materials from customers a minimum of one time per month. Each hauler shall provide to the City, as part of the hauler's annual application for a Commercial Garbage Hauler License, a written description of the hauler's recycling program.

E. Insurance Required.

A certificate of insurance which lists the City of Brandon as named insured must be provided along with the application for a Commercial Garbage Hauler License.

1. Such insurance shall protect the applicant and the City of Brandon against loss from the following:
 - a. Liability imposed by law for damages on account of bodily injury or death resulting therefrom, suffered or alleged to have been suffered by any person or persons whatever resulting directly or indirectly from:
 - (1) Any act, activity, errors or omissions of the licensee; and
 - (2) Any act, activity, errors or omission of any person acting for the licensee; and
 - (3) Any act, activity, errors or omissions of any person under the control or direction of the licensee; and
 - b. Liability imposed by law for damages to property resulting directly or indirectly from:
 - (1) Any act, activity, errors or omissions of the licensee; and
 - (2) Any act, activity, errors or omissions of any person acting for the licensee; and
 - (3) Any act, activity, errors of omissions of any person under the control or direction of the licensee.

2. The certificate of insurance must show that the applicant has secured liability insurance with the following coverage:
 - a. For public liability and property damage and for bodily injury/death, resulting from any one accident or any other cause, in the minimum amount of \$250,000 for any one occurrence and an annual aggregate limit for \$500,000 for two or more occurrences; and
 - b. For damage liability for property damage resulting from any one accident or other cause, in the minimum amount of \$250,000; or
 - c. Combined coverage for bodily injury/death or property damage, in the minimum amount of \$1,000,000.

F. Duty of License Holder.

License holders shall comply with all of the ordinances of the City of Brandon, S.D.

G. Rate Structure.

Beginning with applications for licenses for the year 1995, each applicant for a Commercial Garbage Hauler License shall provide, as an attachment to the application, a schedule of the rates which the applicant is proposing to charge its customers. The rate structure shall demonstrate that the applicant's proposed rates are volume based, as defined in Section 6-5-1 of this Ordinance. If applicable, charges shall be categorized as to residential, commercial, and any other special charges. If the application is approved, the rate structure identified in the application shall remain in effect during the term of the license. A license holder may change the rate structure during the term of the license only upon approval by the Governing Board. The Governing Board may approve a requested change only after a written request from the license holder, and only if the request appears to maintain the principles of volume based rates.

Legislative History:

Ordinance No. 232, 2/14/95

6-5-9

VEHICLE TO VEHICLE TRANSFER.

The loading, unloading, and transfer of garbage collection vehicle to another such vehicle shall occur only upon lands or within structures which have been zoned by the City of Brandon for Industrial use.

Legislative History:

Ordinance No. 232, 2/14/95

6-5-10

OBLIGATION TO REMOVE.

Garbage collectors shall be under no obligation to remove any garbage unless the payments for the removal of such garbage, as provided by contract with the customer, shall have been made.

Legislative History:

Ordinance No. 232, 2/14/95

6-5-11**REVOCATION.**

Any license issued under the provisions of this chapter may be revoked by the City Council for the violation by the licensee of any applicable provision of state law or City ordinance, rule or regulation.

Legislative History:

Ordinance No. 232, 2/14/95

6-5-12**VIOLATION OF ORDINANCE.**

Any violation of any provision of this Ordinance shall be a petty offense punishable pursuant to Brandon Municipal Ordinance 1-10-1.

Legislative History:

Ordinance No. 232, 2/14/95

Ordinance No. 271, 9/7/98

6-5-13**SAVING CLAUSE.**

In the event that any part of this ordinance is declared, by a duly authorized court of law, to be unconstitutional, in conflict with South Dakota Codified Laws, or in conflict with the Administrative Rules of South Dakota, such part of this ordinance shall become null and void. In the event of such a finding against a part of this ordinance, the remainder of this ordinance shall continue to be effective.

Legislative History:

Ordinance No. 232, 2/14/95

6-5-14**SEPARABILITY.**

All prior ordinances or parts of prior ordinances in conflict with the provisions of this ordinance are hereby repealed.

Legislative History:

Ordinance No. 232, 2/14/95