CHAPTER 8: GARBAGE AND TRASH
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Section

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Inclusion of 8-1, 8-3 through 8-18, 8-20 and 8-21 of an ordinance adopted 4-5-1979, as Chapter 8, Art. II, 8-19 through 8-37, was at the discretion of the editor, the ordinance being nonamendatory of the code. To accomplish this inclusion, the editor has designated the existing provisions of Chapter 8, 8-1 through 8-8, as Article I, In General. In connection with the establishment of franchises, the user’s attention is drawn to 8-22 of the chapter, which reads as follows: In the event Hardin County adopts an ordinance pertaining to the same subject matter as this chapter, then and in that event any standard of Hardin County’s ordinance which is more stringent than the corresponding standard in this chapter shall become the standard for purposes of this chapter.

ARTICLE I. IN GENERAL

8-1 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASHES. Residue from fires used for cooking and for heating buildings.

COMMERCIAL HANDBILL. Any handbill which:

(1) Advertises for sale, or promotional gifts or prizes, any merchandise, product, commodity or thing;
(2) Directs attention to any business or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales or by other means;

(3) Directs attention to or advertises any meeting, exhibition, theatrical or other performance or event of any kind for which an admission fee is charged;

(4) Directs attention to or advertises any meeting, exhibition, theatrical or other performance or event of any kind for which an admission fee is charged; or

(5) While containing reading or pictorial matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

**CONSTRUCTION SITES.** Any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

**ELEMENTS.** Any element whether created by nature or created by humans, which with reasonable foreseeability could carry litter from one place to another. **ELEMENTS** shall include, but not be limited to, air current, rain, water current and animals.

**GARBAGE.** Wastes resulting from the handling, preparation, cooking and consumption of foods, wastes from the handling, storage and sale of produce.

**HANDBILL.** Any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet or any other printed matter or literature which is not delivered by United States mail, except that **HANDBILL** shall not include a newspaper that is placed in a paper box provided by a newspaper company.

**JUNKED MOTOR VEHICLE.** Any motor vehicle which is partially dismantled or wrecked and which cannot safely or legally be operated. Junked, wrecked or nonoperative motor vehicles, including parts cars, stored on private real property by automobile collectors, whether as a hobby or a profession, if these motor vehicles and parts cars are stored out of ordinary public view by means of suitable fencing, trees, shrubbery or other means.

**LITTER.** Any uncontainerized human-made or human-used waste, which, if deposited within the city other than in a litter receptacle, tends to create a danger to public health, safety and welfare or to impair the environment of the people of the city. **LITTER** may include, but is not limited to, any combustible trash, including, but not limited to, paper, cartons, boxes, barrels, wood, excelsior, wood furniture, bedding; non-combustible trash, including, but not limited to, metals, tin cans, metal furniture, dirt, catch-basin dirt, small quantities of rock and pieces of concrete, other mineral waste; street rubbish, including, but not limited to, street sweepings; contents of litter receptacles.

**LITTER RECEPTACLE.** Any container which is designed to receive litter and to prevent the escape of litter deposited therein, which is of the size or sufficient capacity to hold all litter generated between collection periods and which is in compliance with the regulations issued pursuant to this article.
**MOTOR VEHICLE.** Any self-propelled land vehicle which can be used for towing or transporting people or materials, including, but not limited to, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the-road vehicles.

**MOTOR VEHICLE ACCESSORIES.** Any part or parts of any motor vehicle.

**PARK.** A public or private park, reservation, playground, beach, recreation center or any public or private area devoted to active or passive recreation, or any other area under the supervision of the department of parks and recreation.

**PARKING LOTS.** Any private or public property with provisions for parking vehicles, to which the public is invited or which the public is permitted to use or which is visible from any public place or private premises.

**PERSON.** Includes any individual, firm, partnership or corporation.

**PRIVATE PREMISES.** Includes any dwelling house, building or other structure designed to be used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox or other structure belonging or pertinent to the dwelling house, building or other structure, and any real property not owned by the federal government, state, county, city school board or other public subdivision.

**PUBLIC PLACE.** Includes any and all streets, boulevards, avenues, lanes, alleys, easements, medians or other public ways, and parks, squares, plazas, grounds and buildings frequented by the general public, whether publicly or privately owned.

**REMOVAL.** The physical relocation of any of the items herein designated to constitute garbage, litter, ashes, including junked motor vehicles and motor vehicle accessories, to an authorized location.

' **8-2 LITTERING PROHIBITED.**

No person shall deposit any litter within the city except in public receptacles, in authorized private receptacles for collection or in any duly licensed disposal facility.

' **8-3 PREVENTION OF SCATTERING.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.
' 8-4 UPSETTING, TAMPERING WITH RECEPTACLES, OR PLACING GARBAGE IN RECEPTACLES OTHER THAN OWN.

(A) No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.

(B) No person shall place any garbage, or litter within the city in a receptacle other than his or her own receptacle or one which has been provided for him or her by his or her corporation or landlord. It shall be prima facie proof that the individual has placed garbage or litter in an unauthorized receptacle if the trash found in the receptacle bears the name of the individual who is not authorized to place garbage or litter in the receptacle.

' 8-5 DUMPING.

It shall be unlawful to dispose of garbage, refuse or ashes by dumping same on any premises in the city, with or without the consent of the owner of the premises. It shall be unlawful for the owner of any real property in the city to dump or permit the dumping of garbage, refuse or ashes on his or her property.
(Ord. passed 3-4-1969)

' 8-6 CONTAINERS.

(A) All garbage, refuse and ashes awaiting disposal shall be placed in metal or plastic containers equipped with a tight cover. Any container that is not a commercial dumpster used by a sanitation company shall be equipped with handles so that it may be carried by one person and shall have a capacity of not less than ten gallons or more than 30 gallons. While storing garbage, refuse or ashes, the container shall be kept completely closed at all times.

(B) No person shall permit his or her containers to set upon any public right-of-way unless placed there for pickup and then only on the day of pickup and prior to the pickup. All containers shall be placed near a public road, street or at a place convenient to be picked up for disposal purposes.
(Ord. passed 3-16-1967; Ord. passed 3-4-1969)

Cross-reference:
Nuisances, see Chapter 13

Editor=s note:
See the editor=s note under the chapter analysis.

Statutory reference:
Solid Waste Management, see KRS Ch. 109
' 8-7  PROHIBITED STORAGE.

(A) It shall be unlawful for any person owning or having custody of any junked motor vehicle or motor vehicle accessories to store or permit any such vehicle or accessories to remain on any private property within the city for a period of more than 30 days after the receipt of a notice requiring the removal, and it shall be further unlawful for any person owning any private property in the city to store or permit to remain any vehicle or accessories on his or her property for more than a like period. The storage is declared to be a public nuisance and may be abated or removed and penalties imposed as provided in this chapter.

(B) It shall be unlawful for any person, after notification to remove any junked motor vehicle or motor vehicle accessories from any private property has been given, to move the same to any other private property upon which storage is not permitted or onto any public highway or other public property for purposes of storage.

(C) This section shall not apply to any motor vehicle or motor vehicle accessories stored underneath a covering including, but not limited to, tarpaulins and/or car coverings in which the motor vehicle or motor vehicle accessories cannot be seen by the public.

' 8-8  PERMITTED STORAGE.

This section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of the business enterprise, in a storage place or depository maintained in a lawful place and manner, or seasonal use vehicles such as snowmobiles, motorcycles, motor scooters and non-motorized campers. The business enterprises shall include auto junk yards, auto repair and auto body shops but shall not include automobile service stations or tire, battery and accessory sales stores.

' 8-9  INVESTIGATION OF PREMISES.

The Code Enforcement Officer on routine inspection or upon receipt of a complaint may investigate a suspected junked motor vehicle or motor vehicle accessories and record the make, model, style and identification numbers and its situation.

' 8-10  NOTICE OF REMOVAL.

(A) Whenever the Code Enforcement Officer finds or is notified that any junked motor vehicle or motor vehicle accessories have been stored or permitted to remain on any private property within the city, the Code Enforcement Officer shall send, by certified mail, a notice to the owner of record of the
motor vehicle or accessories, if the owner can be ascertained by the exercise of reasonable diligence, and also the owner of the private property as shown on the tax assessment records of the city, on which the same is located, to remove the junked motor vehicle or motor vehicle accessories within 30 days.

(B) The notice shall also contain the following additional information:

(1) Nature of complaint;

(2) Description and location of the motor vehicle and/or motor vehicle accessories;

(3) Statement that the motor vehicle or motor vehicle accessories will be removed from the premises no later than 30 days from date of notification;

(4) Statement that removal from the location specified in the notification upon which the storage is not permitted is prohibited and shall subject the person to additional penalties;

(5) Statement that if removal is made within the time limits specified, notification shall be given in writing to the Code Enforcement Officer; and

(6) Statement of the penalties provided for non-compliance with the notice.

8-11 COMMERCIAL HANDBILLS OR HANDBILLS AND SIGNS ON PUBLIC PLACES.

(A) Commercial handbills or handbills, signs; public places and objects.

(1) No person shall paint, mark or write on, or post or otherwise affix any handbill or sign to or upon any sidewalk, crosswalk, curb, curbstone, street lamppost, hydrant, tree, shrub, tree stake or guard, electric light or power or telephone pole or wire appurtenances, or upon any fixture of the fire alarm or police system or upon any lighting system, public bridge, drinking fountain or other lifesaving equipment, street sign or traffic sign.

(2) Nothing in this section contained shall apply to the installation of terrazzo sidewalks or sidewalks of similar construction, sidewalks permanently colored by an admixture in the material of which the same are constructed, and for which the building inspector has granted a written permit.

(3) Any commercial handbill, handbill or sign found posted, or otherwise affixed upon any public property contrary to the provisions of the section, may be removed by the Code Enforcement Officer. The person responsible for any such illegal posting shall be liable for the cost incurred in its removal.

(4) Nothing in this section shall apply to the installation of a metal plaque or plate, or individual letters or figures, in a sidewalk commemorating a historical, cultural or artistic event, location or personality for which the Building Inspector has granted a written permit.
(B) **Throwing or distributing commercial handbills or handbills in public places.** No person shall throw, scatter or cast any kind of commercial handbill or handbill in or upon any public place within the city; and no person shall hand out or distribute or sell any commercial handbill in any public place; provided, however, it shall not be unlawful for any person to hand out or distribute handbills or any other thing which is otherwise permitted and authorized by law in any public place to any person willing to accept the commercial handbill or handbill or other thing, without payment therefore.

(C) **Placing commercial handbills or handbills in or upon vehicles, except with the consent of the owner of the property.** No person shall deposit, fasten, throw, scatter or cast any handbill in or upon any vehicle. The provisions of the section shall not be deemed to prohibit the handing of any noncommercial handbill to the owner or other occupant of any vehicle who is willing to accept it without payment therefore.

(D) **Premises posted against commercial handbill or handbill distribution.** No person shall place any handbill upon any premises if required by anyone thereon not to do so or if there is placed on the premises in a conspicuous position near any entrance thereof a sign bearing notice indicating in any manner that the occupants of the premises do not desire to have any such handbills left upon the premises.

(E) **Manner of commercial handbill or handbill distribution on inhabited private premises.** No person shall place any commercial handbill or handbill in or upon any private premises which are inhabited, except by handing or transmitting any such commercial handbill or handbill directly to any other person then present in or upon the private premises. However, in case of inhabited private premises which are not posted against commercial handbill or handbill distribution as provided in this article, any person, unless requested by someone upon such premises not to do so, may place or deposit any commercial handbill or handbill in or upon the inhabited private premises, if the handbill is placed or deposited so as to prevent it from being carried by the elements about the premises or elsewhere, except that mailboxes may not be so used when prohibited by federal postal laws or regulations.

(F) **Clean-up.** Any person distributing commercial handbills or handbills shall maintain the area which they are utilizing free of any litter caused by or related to the commercial handbill or handbill distribution.

**'8-12 MANDATORY GARBAGE PICKUP.**

All persons, partnerships, corporations or any legal entity who accumulate garbage or litter within the city shall be required to have the garbage or litter disposed of by a commercial sanitation company which regularly picks up garbage or litter within the city. The garbage or litter shall be picked up at least once per week. Mandatory garbage or litter pickup is required in order to provide for the health and welfare of the citizens of the city and to ensure the best disposal of garbage or litter.
' 8-13  CONVEY OF LOOSE MATERIALS ON PUBLIC WAYS.

(A) Vehicles dropping contents on street. It shall be unlawful for any person to transport in any vehicle or by any other means or manner any loose material or articles likely to sift, fall, spill or be blown about on any public street, alley, easement or median, or any other public way in the city; provided that this section shall not be construed to apply to the provisions of this chapter preparatory to having such material collected and disposed of, in the manner provided herein.

(B) Regulations for use of garbage or litter disposal vehicles.

(1) It shall be unlawful for any person to overload such vehicles. Each operator of such a vehicle shall cover the contents or shall convey the contents in tightly secured and covered boxes or other containers. The bed and sides of any vehicle used for the transport of garbage or littler shall be of metal construction or shall be lined with metal.

(2) In case any of the contents of the vehicles shall become blown or scattered upon any public street, alley, easement, median or other public way or place in the city, the person in charge thereof shall immediately gather up or cause to be gathered up any such blown or scattered material.

(3) No persons shall drive or move any loaded or partly loaded truck or other vehicle within the city unless the vehicle is so constructed or loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

' 8-14  MAINTENANCE OF PROPERTY.

(A) Litter collection and storage areas; clean conditions. Every owner or occupant or lessee of a house or building used for residence, business or commercial purpose shall maintain litter collection and storage areas in a clean condition and insure that all litter is properly containerized. Failure to so maintain clean litter collection and storage areas shall constitute a violation of this section.

(B) Duty to collect litter before it is carried from the premises. All litter that is subject to movement by the elements shall be secured by the owner of the premises where it is found before the same is allowed to be removed by the elements to adjoining premises. Cleaning up the litter in a reasonable time is a defense to a violation.

(C) Neglected premises visible to the public. It shall be the duty of any person owning or controlling a house or other building or premises, including vacant lots visible from any public place or private premises, to maintain the premises in a reasonably clean and orderly manner and to a standard
conforming to other orderly premises in that vicinity. It shall be a violation of this section to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to accumulate litter thereon. Neglected premises shall not include fields or farm land that are not adjacent to residences and are natural to the field or area.

(D) Areas around business premises; clean conditions. The owner or person in control of any public place, including but not limited to restaurants, shopping centers, fast-food outlets, stores, hotels, motels, industrial establishments, office buildings, apartment buildings, housing projects, gas stations, hospitals and clinics shall keep the premises clean of litter and shall take measures to prevent litter from being carried by the elements to adjoining premises. It shall be a violation of this section to abandon, neglect or disregard the condition or appearance of the premises so as to permit it to accumulate litter thereon.

(E) Construction sites; clean conditions. The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such manner that litter will be prevented from being carried by the elements to adjoining premises.

(F) Maintaining sidewalks, easements and alleys. Persons owning, occupying or in control of any premises shall keep the sidewalks, easements and alleys adjacent thereto free of litter.

(G) Neglected containers; contractor.

(1) It shall be unlawful for any person who has contracted to collect and remove litter, or garbage described above to allow that litter, or garbage to remain uncollected beyond the date provided by the contract for its collection and removal, or in any case to allow that container to remain unemptied for longer than fourteen days or in any case until after that litter, or garbage creates any condition which is offensive to persons upon any private premises or public place.

(2) A violation of this section may be abated in accordance with the provisions of ' 8-21 of this article; provided, however, that, in lieu of the lien therein provided the container in question may be impounded and a lien be executed against any property held in connection with the business of collecting litter or garbage by the person who has agreed by contract to collect and remove that litter or garbage in question.

' 8-15 ILLEGAL DEPOSITS OF GARBAGE. (RESERVED)

' 8-16 ILLEGAL DEPOSITS OF LITTER AND THE LIKE.

It shall be unlawful to cause or permit any ashes or litter to accumulate except in a covered container.

' 8-17 DISPOSAL. (RESERVED)
' 8-18 DUMPING.

(A) It shall be unlawful to dispose of garbage or litter by dumping same on any premises in the city, with or without the consent of the owner of the premises.

(B) It shall be unlawful for the owner of any real property in the city to dump or permit the dumping of garbage or litter on his or her property.

' 8-19 LITTER RECEPTACLES.

(A) Containers generally.

(1) All garbage or litter awaiting disposal shall be placed in metal or plastic containers equipped with a tight cover.

(2) Any container that is not a commercial dumpster used by a sanitation company shall be equipped with handles so that it may be carried by one man and shall have capacity of not less than ten gallons, nor more than 36 gallons.

(3) While storing garbage or litter, the container shall be kept completely closed at all time.

(B) Pick-up. No persons shall permit their containers to set upon any public right-of-way unless placed there for pick-up and then only on the day of pick-up and prior to the pick-up. All containers shall be placed near a public road, street or at a place convenient to be picked up for disposal purposes.

(C) Public places. Every owner, occupant, tenant or lessee using or occupying any public place shall provide adequate litter receptacles of sizes, numbers and types as required to contain all litter generated by those persons frequenting that public place and as specified by the Code Enforcement Officer.

(D) Private premises. The owner or person in control of private premises shall maintain litter receptacles for collection of litter as necessary.

(E) Specifications. Litter receptacles shall comply in size, material and all other characteristics with the specification of regulations made pursuant to this article.

(F) Periodical emptying of receptacles. All litter shall be removed periodically from litter receptacles as necessary to maintain their usefulness and in accordance with regulations made pursuant to this article.

(G) Litter receptacles obstructing traffic. Litter receptacles shall not be placed in any location where they may obstruct vehicular traffic or unreasonably obstruct pedestrian traffic.
(H) **Containers exempt from the provisions of this section.** No section of this article and no regulations made pursuant to this article in furtherance of the purposes and provisions of this article shall be construed to regulate the containers used in the collection of litter, or garbage which containers are regulated by city ordinances.

' **8-20 ENFORCEMENT.**

Regulations promulgated in this article shall be enforced by the Code Enforcement Officer.

' **8-21 ABATEMENT BY THE CITY.**

The Code Enforcement Officer, where premises are in violation of any section of this article, is hereby empowered to enter upon the premises and may thereupon correct the unclean conditions and place a lien on the land in the same amount and in accordance with the procedure provided for abatement of unwholesome environmental conditions, but the person shall also be liable in an action to recover the hereinafter named penalty.

' **8-22 RECOVERY BY CITY OF EXPENSES OF LITTER REMOVAL.**

The city is damaged by the depositing of litter within the city and the cost of litter removal has become a significant expense of the city. It is intended that persons responsible for the expenses shall bear the costs of same. In order to recover the cost of litter removal, the city may bring a civil action against any person believed to be responsible for depositing litter. The city may, in order to avoid the necessity of the institution of the action, make an offer of settlement to any person believed to be responsible for depositing litter. If the settlement offer is accepted, no action will be instituted by the city.

**ARTICLE II. PRINCIPLES FOR ESTABLISHING FRANCHISE**

' **8-51 ESTABLISHED.**

The city does hereby establish an exclusive franchise for the collection of garbage, trash, refuse and waste within the territorial limits of the city for residential and commercial residents as they now exist and as they may exist in the future.

(Ord. passed 4-5-1979; Ord. passed 9-8-2003)
' 8-52 CONSIDERATION PAID BY BIDDER.

The city shall be paid a consideration by the successful bidder for a franchise, which shall be expressed as a percentage of the gross revenue received by the successful bidder with a guaranteed minimum of 3%. The successful bidder(s) shall pay the percentage of gross revenue known as franchise fees at least on a quarterly basis. The franchise fee shall be due no later then fifteen days from the last day of the quarterly period based on a calendar year basis. (January 15, April 15, July 15 and October 15)
(Ord. passed 4-5-1979; Ord. passed 9-8-2003; Ord. 08-11-1051, passed 11-12-2008)

' 8-53 VARIOUS BID REQUIREMENTS.

(A) Collection. The successful bidder shall collect and dispose of all residential and commercial garbage, trash, refuse and waste, with the exception of no industrial waste and roll-off dumpsters leased by customers for disposal of construction debris on a temporary, limited or one-time basis, and shall collect the approved fees therefor, subject to the approval of the City Council. The successful bidder shall not, at any time, raise the garbage collection rates without the approval of the City Council. No add on charges may be assessed without the expressed consent of the City Council.

(B) Company information. Each bidder shall give his or her full name, firm or company and his, her or its address.

(C) Service of customers. Each bidder must serve any customer located within the city and be prepared to service the entire area of the city.

(D) Charges. Each bidder must state the charge to each customer receiving services and the charges shall not be discriminatory nor unreasonable however, bidder(s) may differentiate among customer charges between commercial customers and residential customers and other relevant factors such as the size of commercial containers and number of pick ups provided but any and all charges must always be approved by the City Council as here and after set out. The charges for each type of collection and disposal service shall be the same for each type of user receiving the service, but in no event shall the collection charges be charged more than three months in advance. The responsibility for the collection of the charges shall be with the franchise holder who assumes the sole responsibility therefore without right of indemnification from the city who is free of obligation for these charges.

(E) Description of vehicles. Each bidder must state the number of vehicles, type of vehicle and age of vehicle to be used in servicing its customers.

(F) Proposed rates.

(1) Each bidder must state the proposed rates to be charged for:

(a) Collection and transportation services rendered;
(b) Disposal services rendered; and

(c) Total services rendered per customer.

(2) These amounts may be on a per pick-up basis or per time span basis (example: per day, per week, per month and the like) or per volume or per weight basis or container size as it relates to commercial customers.

(Ord. passed 4-5-1979; Ord. passed 2-18-1998; Ord. passed 9-8-2003; Ord 08-11-1051, passed 11-12-2008)

' 8-54  NUMBER OF WEEKLY COLLECTIONS.'

The successful bidder shall be responsible for the pickup of residential garbage, trash, refuse and waste at the street or lot fronting each residence. The collection for residential customers must be at least one time per calendar week. The number of collections for commercial customers shall be agreed upon between the commercial customer and the successful bidder, but shall not be less than one pickup per week and the successful bidder shall be capable of pickups as often as daily.

(Ord. passed 4-5-1979; Ord. passed 2-18-1998; Ord. passed 9-8-2003; Ord 08-11-1051, passed 11-12-2008)

' 8-55  HOURS OF COLLECTION; LITTERING.'

The successful bidder shall make collections between the hours of 6:00 a.m. and 10:00 p.m. and such collection shall be done as quietly as possible. The successful bidder shall not litter any premises, whether public or private.

(Ord. passed 4-5-1979; Ord 08-11-1051, passed 11-12-2008)

Editor=s note:

Inclusion of 1, 3-18, 20, 21 of an ordinance adopted Apr. 5, 1979, as Ch. 8, art. 11, 8-19-8-37, was at the discretion of the editor, the ordinance being nonamendatory of the Code. To accomplish this inclusion, the editor has designated the existing provisions of Ch. 8, 1-8-8, as Article I. In General. In connection with the establishment of franchises, the user=s attention is drawn to 22 of the ordinance, which reads as follows: In the event Hardin County adopts an ordinance pertaining to the same subject matter as this ordinance, then and in that event any standard of Hardin County=s Ordinance which is more stringent than the corresponding standard in this ordinance shall become the standard for purposes of this ordinance.

' 8-56  BIDDER TO FURNISH PERSONNEL AND EQUIPMENT.'

The successful bidder shall furnish all labor, tools and equipment necessary for the operation of the collection system and be responsible for all maintenance of the equipment. The successful bidder shall provide an adequate number of collection vehicles; and each of the vehicles must be inspected annually
by a representative of the city and must be kept in good repair, appearance and in a sanitary condition at all times. Each vehicle shall have clearly visible on each side the name and phone number of the successful bidder, but shall not make reference to the city.

(Ord. passed 4-5-1979)

8-57 MATERIALS SUBJECT TO REFUSAL.

(A) The successful bidder may refuse to accept for regular collection the following, except that the successful bidder shall be required to collect material not in convenient garbage cans and bundles such as household fixtures, appliances and furniture at specified times designated as cleanup periods by the City Council. In addition, the successful bidder will be required to furnish, at a location to be determined by the city, one 40-yard roll off box without charge to the city for use by the general public during April clean up.

1. Radioactive materials;

2. Poisons liable to contaminate the disposal area;

3. Liquid wastes;

4. Construction projects;

5. Materials not in convenient garbage cans and bundles; and

6. Household fixtures, appliances, furniture, rock and stone.

(B) The bidder shall operate in compliance with all the applicable laws, ordinances and regulations of the state and the city.

(Ord. passed 4-5-1979; Ord. 08-11-1051, passed 11-12-2008)

8-58 BIDDER TO MAINTAIN OFFICE IN CITY.

The successful bidder shall establish, publish on the customers’ statements and maintain a local and/or toll free telephone number providing direct access to an office in Radcliff or the office closest to Radcliff through which he or she may be contacted for service and at which service may be applied for, service fees paid and complaints made. The successful bidder’s office shall be equipped with sufficient telephones and shall be open with a responsible person in sufficient charge to reasonably conduct the business of the successful bidder Monday through Friday of each week. Billing may be made for a period of no greater than three calendar months per billing cycle in advance. The successful bidder shall provide notices to residential customers notifying them of large item pickup dates and/or clean-up dates.

(Ord. passed 4-5-1979; Ord. passed 2-18-1998; Ord. passed 9-8-2003; Ord 08-11-1051, passed 11-12-2008)
' 8-59 PERFORMANCE BOND.

The successful bidder shall furnish a performance bond for the faithful performance of the agreement, executed by a duly licensed surety company in the penal sum of $100,000, which shall be continued as long as the agreement is in effect.
(Ord. passed 4-5-1979)

' 8-60 INSURANCE REQUIRED.

The successful bidder hereby binds himself or herself to indemnify and hold harmless the city from all claims, demands and/or actions, legal and/or equitable, arising from the bidder=s operation hereinabove described. The bidder further agrees to obtain and keep continuously in effect public liability and property damage insurance in an amount of not less than $1,000,000 for any one person and $3,000,000 for any accident, and not less than $100,000 property damage insurance, which policy or policies shall be for the protection of the bidder or the city as its interests may appear. Proof of the insurance shall be furnished by the bidder to the city by certificates of insurance, with a minimum cancellation time of ten days, the time to commence after delivery of the notice to the city at the address hereinafter set forth: City of Radcliff, 411 W. Lincoln Trail Blvd., Radcliff, KY 40160.
(Ord. passed 4-5-1979; Ord. passed 2-18-1998)

' 8-61 COMPLIANCE WITH STATE WORKERS= COMPENSATION PROVISIONS.

The successful bidder, if and when he or she comes within the provisions of the Workers= Compensation Act of the state, shall carry in a company authorized to transact business in the state, a policy of insurance fulfilling all requirements of the Workers= Compensation Act of the state, including, all legal requirements for occupation disease.
(Ord. passed 4-5-1979)
Statutory reference:
Worker=s compensation, see KRS Ch. 342

' 8-62 FAILURE OF BIDDER TO PERFORM.

(A) In the event the successful bidder shall fail to collect materials therein provided to be collected for a period in excess of ten days and provided the failure is not due to war, insurrection, riot, act of God or any other cause or causes beyond the bidder=s control the city may, at its option, after written notice to the bidder as provided therein, take over and operate any or all the bidder=s equipment used in the performance of the agreement, and provide for the operation until the matter is resolved and the bidder is again able to carry out its operations under the agreement. Any and all operating expense incurred by the city in so doing may be deducted by it from any compensation which might be due to the bidder therein from any source whatever.
(B) If the bidder is unable for any cause to resume performance at the end of 30 days, all liability of the city under the agreement to the bidder shall cease, and the city shall be free to negotiate with other bidders for the operation. The operation with another bidder shall not release the bidder therein of its liability to the city for the breach of the agreement. In the event that the agreement is negotiated with another bidder, third-party liability of the bidder therein shall terminate insofar as same arises from tortious conduct in operation and control.

(C) The city may, at its discretion, at any time during the term of this franchise, review the operation of any solid waste collection and disposal services and may, at its discretion, with just cause, terminate any franchise herein granted, upon 30-days notice. Additionally, the contracts may be terminated upon five-days notice for serious violations which the city, in its sole discretion, deems justifiable.

(Ord. passed 4-5-1979; Ord. passed 2-18-1998)

' 8-63 ASSIGNMENT SUBJECT TO CONSENT OF CITY.

No assignment of the agreement or any right occurring under the agreement shall be made in whole or in part by the successful bidder without the express written consent of the city, nor shall any subcontract be let under the agreement without the express written consent of the city; and, in the event of any assignment, the assignee shall assume the liability of the bidder, but the bidder shall not be relieved of any liabilities due to any assignment or subcontract.

(Ord. passed 4-5-1979)

' 8-64 RECORDS TO BE KEPT BY BIDDER.

The successful bidder shall keep daily records of garbage and trash collected and the city shall have the right to inspect the same for the purpose of analysis of the financial conditions of the operation. The bidder shall submit a proposed record and accounting system for approval. All information so obtained shall be confidential and shall not be released by the city unless expressly authorized in writing by the bidder.

(Ord. passed 4-5-1979)

' 8-65 TERMINATION OF AGREEMENT.

The agreement shall terminate in the case of bankruptcy, voluntary or involuntary, or insolvency of the bidder. The time of termination in the event of bankruptcy shall be the day and time of filing of the petition in bankruptcy.

(Ord. passed 4-5-1979)
' 8-66 MODIFICATION.

The agreement shall constitute the entire agreement and understanding between the parties; and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties.
(Ord. passed 4-5-1979)

' 8-67 RIGHT OF ENFORCEMENT BY CITY.

The failure of the city at any time to require performance by the bidder or any provisions of the agreement shall, in no way, affect the right of the city thereafter to enforce same. Nor shall waiver by the city of any breach of any provisions be taken or held to be a waiver of any succeeding breach of provision or as a waiver of any provision itself.
(Ord. passed 4-5-1979)

' 8-68 DISPOSAL OF WASTE MATERIALS.

All waste materials collected by the bidder shall be disposed of in the Hardin County Recycling and Disposal Facility located at Pearl Hollow. The successful bidder shall be required to pay any charges for disposal as any other landfill customer. In the event this designation of the franchise is for any reason found illegal, invalid or unconstitutional, the city shall have the right to exercise its option to terminate this franchise.
(Ord. passed 4-5-1979; Ord. passed 2-18-1998)

' 8-69 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL CUSTOMERS and GARBAGE. All types of solid waste generated by stores, offices, restaurants, warehouses and other service and non-manufacturing activities, excluding residential and industrial solid waste.

INDUSTRIAL SOLID WASTE. Solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from processes for manufacturing or producing the following: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing or foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and
miscellaneous plastic products, except tire-derived fuel; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. Industrial waste and industrial customers are not included in this franchise and those customers may negotiate with any waste disposal company that is capable of removing and disposing of their industrial solid waste and garbage

**RESIDENTIAL CUSTOMERS.** Customers with solid waste, including garbage and trash generated by single and multiple family residence, hotels, motels, bunk houses, ranger stations, crew quarters and recreational areas such as picnic areas, parks and camp grounds. For the purpose of this franchise, a **RESIDENTIAL CUSTOMER** is hereby defined to be those places used by persons as their place of residence, including private residences, apartment buildings and mobile homes, including mobile homes located within a mobile home park and commercial customers are customers who are not residential customers.

**SUCCESSFUL BIDDER.** He or she shall negotiate with owners of apartment buildings and mobile home parks as if they were commercial customers if the customers use the ordinary containers of a commercial customer such as storage dumpster; the negotiation shall be on the same rates as were bid and approved for commercial customers in this franchise.

(Ord. passed 9-8-2003; Ord. 08-11-1051, passed 11-12-2008)

' 8-70  AUTHORITY TO ADVERTISE FOR BIDS.

The Mayor or his or her designee is hereby authorized to advertise for bids as herein before set out.

' 8-71  RESIDENTIAL/COMMERCIAL BID ACCEPTANCE.

The city expressly reserves the right to distinguish between residential garbage/solid waste, commercial garbage/solid waste and/or industrial solid waste and award a franchise limited in whole or in part to residential garbage/solid waste and commercial garbage/solid waste or may accept separate bids for each and/or reserve the right to accept a bid for a joint collection of each.

' 8-72  TERM OF THE FRANCHISE.

This franchise shall be for a period not to exceed five years, to commence on a date agreed to by the city and the bidder(s) and the city reserves the right to grant the franchise for such terms or optional period as fixed by the city.
PENALTY.

Any person who shall violate this article shall be fined not less than $20, nor more than $500, and/or 12-months imprisonment for each offense; a separate offense shall be committed for each day the violation occurs. Any person violating this article may also be found guilty of a civil offense. The civil fine shall be not less than $20, nor more than $250. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with this article or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Ord. passed 3-16-1993; Ord. passed 10-11-1994)