



**MAYOR AND COUNCIL WORK SESSION
WEDNESDAY, MAY 27, 2020
12:00 PM
PUBLIC WORKS DEPARTMENT - 535 ELM STREET**

A G E N D A

Call to Order

Pledge of Allegiance

Approval of Agenda

New Business:

1. Discussion of Draft Refuse Collection Ordinance

Supplemental Business

Adjournment

Chapter 94 - SOLID WASTE^[1]

Footnotes:

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Cross reference— Garbage, trash, refuse and waste material at Dalton Municipal Airport, § 18-34; buildings and building regulations, ch. 22; environment, ch. 50; storage of waste and junk, § 50-146 et seq.; manufactured homes and trailers, ch. 70; utilities, ch. 118.

State Constitution reference— Local garbage and solid waste collection and disposal, Ga. Const. art. IX, § II, ¶ III.

State Law reference— Georgia Comprehensive Solid Waste Management Act, O.C.G.A. § 12-8-20 et seq.; local solid waste management regulations, O.C.G.A. § 12-8-30.9; local comprehensive solid waste management plan, O.C.G.A. § 12-8-31.1; cost reimbursement fees and surcharges, O.C.G.A. § 12-8-39; reduction of amount of solid waste in city, O.C.G.A. § 12-8-29.3; local restrictions on disposal of tires, O.C.G.A. § 12-8-40.1; local and regional solid waste management authorities, O.C.G.A. § 12-8-50 et seq.; Litter Control Law, O.C.G.A. § 16-7-40 et seq.

ARTICLE I. - IN GENERAL

Secs. 94-1—94-245. - Reserved.

ARTICLE II. - COLLECTION

DIVISION 1. - GENERALLY

Sec. 94-25. — City responsible for sanitation services generally.

(a) Solid waste generated by or accumulated from single-family dwellings, individually owned condos & townhomes, and multi-family dwellings which are triplex or less in the city shall be collected, conveyed, and disposed of by the city through its employees, designated agents, or contract representatives.

(b) All solid waste generated or accumulated by commercial establishments in the city shall be collected, conveyed, and disposed of by a private hauler properly permitted by applicable local, State, or Federal agencies.

(c) The City will collect garbage, refuse, recyclables, and yard trimmings in accordance with a schedule established from time to time by the City and kept on file by the Public Works Department.

Sec. 94-26. - ~~Deposit of refuse on public or private property; Use~~ of city garbage & recycling containers; penalty.

(a) *Generally.* No person within the city shall throw or dispose of any paper, trash, fruit, fruit peelings, food scraps or any other garbage or refuse of any kind on the streets, sidewalks, or other public roads or public places nor shall any of such things be left open and exposed on the premises of any person. Except as provided in section 94-29 and subsection (d) herein, all such garbage must be placed in a garbage container provided by the city to be disposed of as provided in this section.

(b) *Ownership ~~and use~~.* Such garbage & recycling containers are and shall remain the property of the city. It shall be unlawful to remove any such garbage or recycling container from the address to which it is assigned without the written permission of the director of public works. It shall be unlawful for the owner of the property to which any such garbage or recycling container is assigned to allow such garbage or recycling container to remain on the curbside later than midnight on the day of

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~~garbage~~ collection or to deposit such garbage ~~or recycling~~ container on the curbside of the property earlier than 5:00 p.m. of the day immediately preceding the next scheduled ~~garbage~~-pickup. The garbage ~~and recycling~~ container shall be stored by the property owner when not on the curbside in such a manner that it is not visible from the curbside of the property.

~~(c) Preparation and use All garbage shall be placed in plastic bags. Plastic bags shall be securely tied at the top. Garbage placed in the plastic bag must not exceed the capacity of the bag causing it to tear open. Garbage placed in receptacles unbagged will not be collected. All garbage must be stored in city issued garbage receptacles with a properly fitted lid that is to remain closed except for filling, emptying, or cleaning. Excessive garbage in the receptacle that prevents the lid from closing, garbage that is piled on top of the receptacle, or garbage that is placed outside of the receptacle will not be collected.~~

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~~(d) Amount. The amount of garbage to be collected shall not exceed ninety-five (95) gallons per collection.~~

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~~(e) Schedule. Curbside garbage and recycling collection will be provided by the City on a once weekly basis.~~

~~(f) Penalty. Any person who shall violate this section shall be subject to the general penalty as set forth in section 1-7 of the Code. The director of public works and the chief of police or their respective designee are authorized and directed to make inspections for the orderly compliance with this section and to issue citations for any violation of this section.~~

~~(g) For the purposes of this section, only household garbage shall be placed in such garbage container. Any recyclable commodity (i.e., type I and II plastics, aluminum cans, bimetal cans, newspaper with inserts, glass (clear, green, or brown), magazines, junk mail, cereal and shoe boxes, computer paper, writing paper, tissue tubes) shall not be placed in such public sanitary container or garbage can but shall be placed for disposition in the curbside recycling program.~~

~~(h) Limitation on use of city garbage containers in the downtown business district. The city garbage containers located on the sidewalks within the downtown business district (as defined in section 10-101 of the Code) shall be for use by pedestrian traffic only. It shall be unlawful for a merchant located within the downtown business district to deposit garbage or other refuse generated by the merchant's business into city garbage containers located on the sidewalks within the downtown business district.~~

(Ord. No. 02-10, § 1, 6-3-2002; Ord. No. 03-25, § 1, 9-15-2003)

Editor's note— Ord. No. 02-10, § 1, adopted June 3, 2002, repealed § 94-26, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 94-26 pertained to deposit of refuse on public or private property and derived from Code 1983, § 20-1; and Ord. of July 17, 1995, § 1(20-1).

~~Sec. 94-27. Nonresidential user fee for collection of garbage.~~

~~Any nonresidential entity or person located within the city who desires the service of garbage pickup by the city shall pay the nonresidential user fee for such service. The nonresidential user fee shall be determined by the director of public works or his designee and shall be a minimum of \$30.00 and not more than \$150.00 per month depending on the nature of the service requested. The director of public works or his designee shall publish a nonresidential user fee rate schedule and is authorized to amend the same from time to time to reflect changes in the cost of services. Such rate shall be paid by the nonresidential user of garbage pick-up service to the city on receipt of a statement from the city for such service. Failure to timely pay such charge shall be cause for immediate discontinuance of the garbage pick-up service to such user without further notice from the city. A \$50.00 reinstatement fee, plus all past due charges owed to the city shall be paid before service is reinstated to the nonresidential user. Nonresidential users shall be provided with garbage containers in which to store garbage or other refuse until the next collection day. The number of appropriate containers for each nonresidential user and the~~

~~schedule of collection days shall be determined by the director of public works or his designee. All official holidays shall be excluded as collection days and the user fee shall be without rebate for any failure to collect garbage due to weather or other condition or cause beyond the control of the city.~~

~~(Code 1983, § 20-2; Ord. No. 03-25, § 2, 9-15-2003)~~

Sec. 94-27~~8~~. - Recyclable materials.

- (a) *Definition.* For purposes of this section, the term "recyclable materials" is defined as follows: Recyclable materials shall include newspapers, ~~glass,~~ aluminum containers, bimetal containers, plastic milk jugs and plastic two-liter bottles and such other materials determined by the director of public works.
- (b) *Placement.* Recyclable materials shall be placed on the curbside in a specially designated bin as directed by the director of public works.
- (c) *Removal without consent.* No person shall remove any recyclable material or the bin in which it is placed without the consent of the director of public works.
- (d) *Penalty.* Whoever violates subsection (c) of this section shall be subject to the general penalty under section 1-7.

(Code 1983, § 20-3)

Sec. 94-28. – Collection of yard trimmings

(a) *Definition.* The term "yard trimmings" is defined as follows: Yard trimmings shall consist of inert items generated from routine yard maintenance including: grass trimmings, small shrubbery trimmings, pine needles, leaves, and small tree limbs

(b) *Collected Items:* The Public Works Department shall collect items of yard trimmings upon the following conditions;

(1) Yard trimmings shall be collected from residential property wholly within the corporate limits.

(2) The yard trimmings shall be generated wholly by the residential property owner or his lessee.

(3) Yard Trimmings shall be placed upon the residential property on the curbside where the property and public right-of-way meet and shall not be placed upon any city street, alley, or right-of-way.

(4) The maximum volume per collection pickup is two (2) cubic yards (about the size of a standard refrigerator) without being charged additional fees as determined by the Director of Public Works.

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(5) Yard trimmings will be recycled as mulch by the City and shall be separated from other refuse. Yard trimmings shall not exceed six (6) feet in length or seventy-five (75) pounds in weight in the units to be handled, and shall be stacked separately with the butt ends parallel to the centerline of the street.

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(6) Yard trimmings shall not be placed over or next to fixed items such as fire hydrants, telephone or electrical boxes, mailboxes, water meters, or anything that could be damaged by equipment or personnel picking up said items. Yard trimmings shall be placed immediately behind the sidewalk. If there is no sidewalk, items and materials shall be placed immediately behind the curb or off the pavement and shall not be located as to impede or obstruct either pedestrian or vehicular traffic or the follow of surface water or block storm drains.

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(7) The City of Dalton will not be responsible for repairing, replacing, or reimbursing for items that are removed or damaged by the City as a result of being placed curbside in such a manner that it appears that the items are intended for removal by the city or are not visible due to being mixed with yard trimmings.

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(8) Leaves shall be placed in neat piles immediately behind the curb or behind the sidewalk where present or immediately adjacent to the roadway on uncurbed streets. In no event shall they be placed in gutters or drainage ditches. Leaf piles shall not contain any other garbage, trash, recyclables, or debris such as rocks, bricks, or concrete.

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(9) The City shall not collect yard trimmings generated from commercial activity or by a person for hire (including but not limited to: mowing contractors, commercial tree trimmers, landscapers, grading contractors, and building contractors). Any person receiving compensation for landscaping or yard work shall be responsible for hauling off the yard trimmings generated by the commercial activity and disposing of them in accordance with applicable laws.

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(10) The City shall not collect brush, stumps, tree trunks, limbs, and rocks which result from ground clearing or grading. This includes all items generated from the use of heavy equipment and machinery.

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(c) Schedule. Yard trimmings shall be collected on an alternating weekly schedule as follows:

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(1) One week on the north section of the city.

(2) The following week on the south section of the city.

(3) The dividing line between the north section and south section of the city is Waugh Street from the east city limit to Thornton Avenue, south on Thornton Avenue to Emery Street, west on Emery Street to Tibbs Road, south on Tibbs Road to Walnut Avenue, west on Walnut Avenue to Dug Gap Mountain Battle Road at the top of the mountain.

(e) *Penalty.* Any person who shall violate this section shall be subject to the general penalty as set forth in section 1-7. The director of public works is authorized and directed to make inspections for the orderly compliance with this section and to issue citations for any violation of this section.

Sec. 94-29. - Collection of refuse from residential property.

(a) *Definition.* The term "refuse" is defined as follows: discarded items that have not been bagged or containerized and/or will not fit into the garbage receptacle, are not yard trimmings, and are not prohibited items accorded to sec 94-29(c). ~~Refuse shall consist of nonhousehold garbage and shall include but not be limited to tree limbs, yard trimmings, leaves and other yard debris; carpet-related waste; metal and metal goods; white goods; and paint and paint-related products.~~

(b) *Collected items.* The public works department shall collect items of refuse upon the following conditions:

(1) Refuse shall be collected from residential property wholly within the corporate limits.

(2) ~~The refuse shall be generated wholly by the residential property owner or his lessee.~~ Single family rental properties (non-commercial) shall only receive garbage, recycling, and yard trimming collection by the City. Refuse originating from rental properties shall be the responsibility of the landlord and/or property owner. The following shall apply to solid waste originating from the property of a landlord cleaning up between tenants:

(i.) Following an eviction, any property, garbage, refuse, belongings, or other items shall be placed on some portion of the landlord's property, immediately behind the sidewalk or if there is no sidewalk, immediately behind the curb or off the pavement and shall not be located as to impede or obstruct or divert either pedestrian or vehicular traffic or the flow of surface water or block drains.

(ii.) After an execution of a writ of possession, such property shall be regarded as abandoned. Any property, garbage, refuse, belongings, or other items placed adjacent to the City right of way on the landlord's property shall be removed within twenty-four (24) hours of the physical eviction by the landlord or property owner. If the property is not removed within twenty-four (24) hours, the property owner and landlord shall be deemed in violation of this Code.

(3) Refuse shall not be placed out at the curbside for collection by the City until the resident has scheduled pickup and received authorization from the Public Works Department in advance. Upon authorization being received by the Public Works Department, ~~Refuse shall be placed upon the residential property on the curbside where the property and the public right-of-way meet and shall not be placed upon any city street, alley, or right-of-way or within the sidewalk.~~

(4) The maximum volume per collection pickup is one ~~truckload.~~ (2) cubic yards (about the size of a standard refrigerator).

~~(5) Tree limbs, yard trimmings, leaves and other yard debris which can be recycled as mulch shall be separated from other refuse. Provided, however, tree limbs, trunks, branches or cuttings shall not exceed eight feet or 200 pounds in weight in the units to be handled, and shall be stacked separately with the butt ends parallel to the center line of the street.~~

(5) Items Permitted for Collection:

(i.) (6) —Carpet-related waste, Household furniture including: couches, love seats, and recliners

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(ii.) metal and white goods shall be separated from other refuse. White goods includes: discarded household appliances such as stoves, refrigerators with the doors removed, washing machines, microwaves, water heaters, dishwashers, and clothes dryers.

(iii.) Electronic waste such as computers, monitors, televisions, and stereos.

(iv.) Paint and paint-related products must be treated with an absorbent material, such as sawdust, prior to collection and shall be separated from other refuse.

(v.) Bicycles, weed trimmers, push mowers (non-riding mowers), metal swing sets, basketball goals and patio furniture

(c) *Limitations.* The public works department shall not collect the following items of refuse:

(1) Tires or vehicle wheels.

(2) Paint and paint-related products in a liquid form.

(3) Construction debris, demolition debris, and roofing material. – The City shall not be responsible for collecting or hauling discarded building materials, dirt, broken concrete, bricks, rock or debris resulting from repairs, major cleanups (this includes, but is not limited to, cleaning out of basements, attics, storage areas, or major cleanups from move-ins or move-outs), remodeling, or construction waste (including, but not limited to: plumbing fixtures, sinks, bath tubs, shower stalls, toilets, cabinets, doors, windows, sheetrock, insulation, wood paneling, water/sewer piping, wire, roofing debris, lumber, subfloor, siding, landscape timbers, crossties, fencing, carpet and/or other floor coverings). Such material must be disposed of by the contractor, tenant, or owner of the property.

(4) Mattresses, box springs, beds, and bedding materials

(5) Cardboard boxes and packing materials – Cardboard boxes shall only be picked up when broken down and placed in the City issued recycling bin. Cardboard shall not be placed out as part of refuse collection.

(6) Loose material: Includes typical packing material (including but not limited to: packing peanuts, Styrofoam, air cushions, bubble wrap, shredded paper, wrapping materials, foam, etc.) and other loose debris not contained in an all-weather container

(7) Hazardous and environmentally sensitive material including but not limited to: wet paint, automotive parts, acid, explosive material, batteries, acid, flammable items, dangerous or corrosive material, medical waste, needles, or any waste requiring special disposal procedures by the Rules of Solid Waste Management of the State of Georgia Department of Natural Resources.

(54) Refuse generated from commercial activity or person for hire.

(5) —Refuse generated by a person for hire, other than the residential property owner or lessee, who receives compensation for such hire or work.

(6) —Brush, stumps, tree trunks and limbs, and rocks which result from ground clearing, grading, or other activities involving the use of heavy equipment and machinery.

(d) Other Considerations. Refuse shall not be placed over or next to fixed items such as fire hydrants, telephone or electrical boxes, mailboxes, water meters, or anything that could be damaged by equipment or personnel picking up said items. Refuse shall be placed immediately behind the sidewalk. If there is no sidewalk, items and materials shall be placed immediately behind the curb or off the pavement and shall not be located as to impede or obstruct either pedestrian or vehicular traffic or the flow of surface water or block storm drains. The City of Dalton will not be responsible for repairing, replacing, or reimbursing for items that are removed or damaged by the City as a result of being placed curbside in such a manner that it appears that the items are intended for removal by the city or are not visible due to being mixed with refuse.

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(ed) *Schedule.* Refuse shall be collected on an alternating weekly schedule as follows:

- (1) One week on the north section of the city.
- (2) The following week on the south section of the city.
- (3) The dividing line between the north section and south section of the city is Waugh Street from the east city limit to Thornton Avenue, south on Thornton Avenue to Emery Street, west on Emery Street to Tibbs Road, south on Tibbs Road to Walnut Avenue, west on Walnut Avenue to Dug Gap Mountain Battle Road at the top of the mountain.

(ie) *Penalty.* Any person who shall violate this section shall be subject to the general penalty as set forth in section 1-7. The director of public works is authorized and directed to make inspections for the orderly compliance with this section and to issue citations for any violation of this section.

(Ord. of 7-17-1995, § 1(20-4); Ord. of 9-8-1998, § 1(20-4); Ord. No. 06-16, §§ 1, 2, 6-5-2006)

Secs. 94-30—94-55. - Reserved.

DIVISION 2. - BUSINESSES; MULTIFAMILY DWELLINGS^[2]

Footnotes:

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Cross reference— Businesses, ch. 26.

Sec. 94-56. - Violations; penalties.

Failure to remove any accumulation of refuse outside the refuse container shall be deemed a violation of this division.

(Code 1983, § 20-54)

Sec. 94-57. - Inspections.

The building inspector is authorized and directed to make inspections to determine whether refuse is being properly contained within the meaning of this division and shall have the power to issue citations for enforcement of this division.

(Code 1983, § 20-55)

Sec. 94-58. - Duty to provide containers.

It shall be the duty of the owner, tenant, lessee, or occupant of a business or multifamily dwelling premises to provide an adequate number of refuse containers or dumpster-type containers for the proper accumulation of refuse.

(Code 1983, § 20-51)

Sec. 94-59. - Occupants of business premises to properly secure refuse.

It shall be the responsibility of the occupant of a business premises to ensure that all refuse is properly secured in the appropriate refuse container. No refuse shall be allowed at any time to accumulate outside the refuse container.

(Code 1983, § 20-52)

Sec. 94-60. - Owners of multifamily dwelling premises to properly secure refuse.

It shall be the responsibility of the owner of multifamily dwelling premises to ensure that all refuse is properly secured in the appropriate refuse container. No refuse shall be allowed at any time to accumulate outside the refuse container.

(Code 1983, § 20-53)

Secs. 94-61—94-70. - Reserved.

DIVISION 3. - CONSTRUCTION SITES^[3]

Footnotes:

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Editor's note— Ord. No. 06-15, § 1, adopted May 15, 2006, added div. 3, consisting of §§ 94-61—94-64. At the editor's discretion and with the approval of the city, said material has been redesignated as §§ 94-71—94-74 to allow for growth in div. 2.

Sec. 94-71. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Building inspector means the building inspector for the city.

Construction and demolition waste means solid waste composed of building materials and rubble resulting from construction, remodeling, repair and demolition operations of houses, commercial buildings and other structures. Such waste includes, but is not limited to, roofing shingles containing asbestos, wood, bricks, metal, concrete, wall board, paper, cardboard, inert waste, and other wastes not likely to cause leachate of environmental concern.

Construction site means any residential, commercial, industrial, or other area, lot, or site which construction or demolition of any type is conducted including roads at buildings, and at all other places actively being constructed, demolished, renovated, or repaired.

Litter means the definition of litter contained in section 94-207 of the Code.

(Ord. No. 06-15, § 1, 5-15-2006)

Sec. 94-72. - On-site burial of waste prohibited.

The burial on a construction site of construction and demolition waste, litter, tree trunks, logs, limbs, and tops is prohibited.

(Ord. No. 06-15, § 1, 5-15-2006)

Sec. 94-73. - Receptacles required; exclusion; condition of building permit.

- (a) The owner, agent, or contractor in charge of a construction site shall furnish on such site receptacles sufficient to contain workers' litter and receptacles sufficient to contain all construction and demolition waste. All receptacles shall be conveniently available and maintained and secured or covered so as to prevent litter and waste from being spilled, discharged, or blown by wind or water. The primary contractor should determine the number and capacity of receptacles, but no less than one receptacle for construction waste shall be placed at each construction site. Receptacles required under this subsection shall be not less than ten gallons capacity. All receptacles shall be emptied as necessary, but not less frequently than weekly, except that receptacles used exclusively to contain construction and demolition waste shall be serviced with sufficient frequency to prevent spillage from overflow and to prevent offensive odors. All receptacles required under this subsection shall remain conveniently available on the site from the time construction activity commences until the construction activity ceases.
- (b) The requirement for receptacles in this section shall not apply to any construction site on which only repair or renovation of a building is taking place, provided that no litter or construction waste is placed, stored, or otherwise accumulated on the exterior of the property outside of a proper receptacle and any such receptacle is maintained in accordance with this subsection.
- (c) Prior to issuance of building permits for all construction or demolition, including new [construction] or remodeling of residential, commercial or industrial sites, the applicant must provide documentation of the manner in which collection, storage and disposal of all construction and demolition waste and litter will be handled during construction. The building inspector, or his designee, shall approve the proper location for the containers.

(Ord. No. 06-15, § 1, 5-15-2006)

Sec. 94-74. - Violations; penalties.

- (a) Upon determining that a violation of this division exists, the building inspector, or his designee, shall cause a written notice of violation to be issued to the subject owner or contractor setting forth the condition existing and a reasonable time within which the owner or contractor shall correct the condition.
- (b) Upon determining that the owner or contractor has failed to correct the subject condition within the time limit prescribed in the notice, the building inspector, or his designee, shall cause a summons to be issued directing the violator to appear in the municipal court to answer the charge of violation of the appropriate section of this division.
- (c) Any person violating or failing to comply with any of the provisions of this division shall be summoned to the municipal court for each violation and upon conviction shall be punished by a fine not exceeding \$1,000.00. Each day a violation of any provision of this division continues after expiration of the time to correct a violation shall constitute a separate violation.

(Ord. No. 06-15, § 1, 5-15-2006)

Secs. 94-75—94-85. - Reserved.

ARTICLE III. - SANITARY LANDFILL

DIVISION 1. - INTERGRATED SOLID WASTE MANAGEMENT^[4]

Footnotes:

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Editor's note— Section 1 of Ord. No. 07-32, adopted Dec. 17, 2007, retitled Div. 1, Generally, to read as herein set out.

Cross reference— Zoning, app. A.

Sec. 94-86. - Findings.

The mayor and council make the following findings:

- (a) Ga. Const. art. IX, § II, ¶ III provides that the City of Dalton, Georgia, may regulate garbage and solid waste collection and disposal within the borders of the city;
- (b) The City of Dalton, Georgia, declared that there was a need for a regional solid waste management authority and voted in 1994 to activate the Dalton/Whitfield Regional Solid Waste Management Authority for the purposes set forth in that resolution, including, but not limited to managing waste generated throughout the city;
- (c) The City of Dalton, Georgia, declared that there was a continuing need for the regional solid waste management authority in 2003;
- (d) Section 12-8-30.9 of the Official Code of Georgia annotated, states that "[no] provision of [the Georgia Solid Waste Management Act] and no rule, regulation, or ruling of the board [of the Department of Natural Resources] or the director [of the Environmental Protection Division of the Department of Natural Resources] shall be construed to be a limitation: (1) On the power of a municipality, county, authority, or special district to adopt and enforce additional regulations...imposing further conditions, restrictions, or limitations with respect to the handling or disposal of municipal solid waste";
- (e) Section 12-8-51 of the Official Code of Georgia, states that "any authority created by this part shall be authorized with respect to any solid waste which the generator thereof, county, or municipal corporation makes available to such authority to enter into agreements in furtherance of a project granting, directing, or providing for an exclusive right or rights in any authority with respect to such solid waste, including, but not limited to the exclusive right to collect, acquire, receive, transport, store, treat, process, utilize, sell, or dispose of discarded solid waste";
- (f) The mayor and council of the City of Dalton, Georgia, adopted the Dalton/Whitfield Regional Solid Waste Management Plan in 1994 and subsequent updates and amendments (the plan) which establish actions for the Dalton/Whitfield Regional Solid Waste Management Authority, Whitfield County, the City of Dalton, Georgia, and other municipalities in Whitfield County to manage solid waste;
- (g) The Whitfield Dalton/Whitfield Regional Solid Waste Management Plan expresses the intent of the Dalton/Whitfield Regional Solid Waste Management Authority, Whitfield County, the City of Dalton, Georgia, and other municipalities located in Whitfield County to continue to utilize the solid waste handling facilities owned and/or operated by the authority;
- (h) There exists a need to provide for the safe and proper management of waste collected, transported, and/or disposed of in the City of Dalton, Georgia, to protect the health, welfare, and safety of the city's residents; to protect and enhance the quality of the environment; to provide a convenient and effective means to finance the city's waste management services; and to encourage, finance, and enforce recycling programs throughout the City of Dalton, Georgia;

- (i) There exists a need to clarify the Code of Ordinances to confirm the Dalton/Whitfield Regional Solid Waste Management Authority's ability to regulate the type of waste disposed of at the authority's facilities and to assess fees relating to the collection and disposal of waste generated within the City of Dalton, Georgia;
- (j) There exists a need and necessity to amend the present Code of Ordinances to allow for certain provisions for the City of Dalton, Georgia Code of Ordinances to be consistent with the plan and for other related purposes.

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-87. - Generally; purpose.

- (a) It is the intention of the mayor and council of the City of Dalton, Georgia, in enacting this division to affirm that the Dalton/Whitfield Regional Solid Waste Management Authority has all power and authority necessary to manage waste generated in the City of Dalton, Georgia, and disposed of at solid waste handling facilities operated by the authority, and to curb thereby the desecration of the beauty of the county which is harmful to the health, welfare and safety of its citizens.
- (b) This division governs the management of solid waste in the City of Dalton, Georgia, including but not limited to collector permit requirements, permit procedures, vehicle requirements, transportation and disposal of solid waste, waste acceptance policies, and enforcement.
- (c) The purposes of this division include, but are not necessarily limited to, the following:
 - (1) To provide environmentally sound, cost-efficient solid waste management in accordance with the Georgia Comprehensive Solid Waste Management Act, O.C.G.A. § 12-8-20 et seq., the rules and regulations promulgated by the Environmental Protection Division of the Georgia Department of Natural Resources, and the Dalton/Whitfield Regional Solid Waste Management Plan.
 - (2) To protect the health, welfare, and safety of the city's residents and to protect and enhance the quality of the environment.
 - (3) To provide for the safe and proper handling of waste generated, collected, and disposed of in the City of Dalton, Georgia.
 - (4) To provide a convenient and effective means to finance the city's waste management services.
 - (5) To provide for safe operation at the facilities of the Dalton/Whitfield Regional Solid Waste Management Authority.
 - (6) To secure data for solid waste management planning for Whitfield County and the City of Dalton as part of a solid waste management plan.
 - (7) To affirm that the Dalton/Whitfield Regional Solid Waste Management Authority has all power and authority necessary to manage waste generated in the City of Dalton, Georgia.
 - (8) To encourage, finance, and enforce recycling programs throughout the City of Dalton, Georgia.

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-88. - Definitions.

For the purpose of this division, the following words, terms, and phrases shall have the meanings ascribed to them in this section:

Biomedical waste means all waste defined as biomedical waste by the Solid Waste Management Act, or by the rules and regulations promulgated by the Environmental Protection Division under the authority of that Act. It also includes wastes such as human tissues, organs, and body parts and fluids

that are removed during surgery or autopsy, or other medical procedures and specimens of body fluids and their containers.

Board of directors means the board of directors of the Dalton/Whitfield Regional Solid Waste Management Authority.

Bulky waste means such items as large household appliances (i.e., washing machines, clothes dryers, water heaters, stoves, refrigerators and dishwashers), furniture, tree stumps, large timber, car bodies, large bundles of carpet waste, large packing containers, tanks, and other items whose volumes are not significantly reduced through normal compaction methods.

Business day means a calendar day other than a Saturday, Sunday, or public and legal holiday as set forth in O.C.G.A. § 1-4-1.

Collector means a person who, under agreements, verbal or written, with or without compensation, does the work of collecting and/or transporting solid wastes from industries, offices, retail outlets, businesses, and/or similar locations, or from residential dwellings; provided, however, this definition shall not include an individual who collects and/or transports waste from a single-family dwelling unit owned or occupied by such individual or his or her immediate family member(s).

Collector permit means a permit required to engage in the business of solid waste collecting in the City of Dalton, Georgia, and issued by the Dalton/Whitfield Regional Solid Waste Management Authority in accordance with the provisions hereof.

Commercial solid waste means all waste defined as commercial solid waste by the Solid Waste Management Act, or by the rules and regulations promulgated by the Environmental Protection Division under the authority of that Act.

Construction or demolition waste means all waste defined as construction or demolition waste by the Solid Waste Management Act, or by the rules and regulations promulgated by the Environmental Protection Division under the authority of that Act.

Dalton/Whitfield Regional Solid Waste Management Authority or the Authority means the solid waste authority of Whitfield County and the City of Dalton, Georgia, created by O.C.G.A. § 12-8-53, as amended, and activated by the respective resolutions of Whitfield County and the City of Dalton, Georgia.

Day means a calendar day, unless otherwise specified.

Disposal or dispose means the discharge, deposit, discard, injection, dumping, spilling, leaking, throwing, or placing of any solid waste or hazardous waste into or on any land or water.

Disposal facility means any facility or location where any treatment, utilization, processing or deposition of solid waste occurs.

Disposal operation means the performance of solid waste disposal, which includes administration, personnel, land, equipment, design and other elements necessary or used in the work of solid waste disposal.

Disposal site means the location where the final deposition of solid waste occurs.

Dump means to throw, discard, place, deposit, discharge, bury, burn, or dispose of a substance, as defined in O.C.G.A. § 16-7-51.

Environmental Protection Division means the Environmental Protection Division of the Georgia Department of Natural Resources, including but not limited to its director, and any successor entity or entities.

Executive director means the executive director of the Dalton/Whitfield Regional Solid Waste Management Authority.

Hazardous waste means all waste defined as hazardous waste by the Hazardous Waste Management Act, or by the rules and regulations promulgated by the Environmental Protection Division under the authority of that act.

Hazardous Waste Management Act shall mean the Georgia Hazardous Waste Management Act, codified at O.C.G.A. §§ 12-8-60 through 12-8-83, as the same has been heretofore or may be hereafter amended.

Household hazardous waste means hazardous waste used or generated in the household or similar source or any item, product or material containing or contaminated by any household hazardous waste.

Industrial solid waste means all waste defined as industrial solid waste by the Solid Waste Management Act, or by the rules and regulations promulgated by the Environmental Protection Division under the authority of that act.

Municipal solid waste means any solid waste derived from households, including garbage, trash, and sanitary waste in septic tanks and means any solid waste from single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas.

Person means an individual, trust, firm, joint-stock company, corporation (including a government corporation), consortium, joint venture, commercial entity, partnership, association, state, municipality, authority, commission, political subdivision of a state, or any interstate body and shall include each department, agency, and instrumentality of the United States.

Processing or processing operation means any method, system or other treatment designed to change the physical form or chemical content of solid waste and includes all aspects of its management (administration, personnel, land, equipment, buildings and other elements).

Putrescible waste means wastes that are capable of being quickly decomposed by microorganisms. Examples of putrescible wastes include, but are not necessarily limited to, kitchen wastes, animal manure, offal, hatchery and poultry processing plant wastes, and garbage.

Recycling means the process by which reclaimed resources are transformed into new products in such a manner that the original products may lose their identity.

Restricted waste, excluding municipal solid waste, means any solid, liquid, or sludge:

- (1) Contained in a drum, barrel, box, pail, transportable tank, or any other container;
- (2) Transported in a bulk tank;
- (3) Residue or waste from a pollution control process;
- (4) Residue or waste from an industrial process; and
- (5) Residue, debris, and waste from the cleanup of a spill or a release of a chemical substance or commercial product or waste associated with items (1) through (4) as above-mentioned.

Restricted waste shall include hazardous waste but shall not include household hazardous waste, provided that such household hazardous waste is disposed of at a solid waste handling facility designated by the authority to accept such household hazardous waste and in accordance with the policies and procedures of the authority. Other restricted wastes may include, but are not limited to, animal wastes and carcasses, asbestos, ash, biomedical wastes, chemicals, containers, clothing, debris, equipment and instruments, grease and oil, latex, plant (vegetal) materials, sludges, washwaters, or other wastes. Sources of such material include but are not limited to research, veterinary and medical laboratories, mortuaries, taxidermists, automobile washes and laundries (both commercial and industrial), publicly owned treatment works, and industrial treatment facilities, food processing and restaurant-related facilities. The board of directors has the full authority to determine whether a waste is a restricted waste.

Solid waste means putrescible and nonputrescible waste except water-carried body waste and materials destined for recycling, and shall include garbage, ashes, street refuse, dead animals, animal manures, commercial solid waste, industrial solid waste, municipal solid waste, residue from incineration, food processing wastes, demolition wastes, dredging waste, construction waste, yard trimmings and any other waste material in a solid or semi-solid state not otherwise defined in this division.

Solid waste handling facility means any location where any storage, collection, transportation, treatment, utilization, processing or disposal of solid waste, or any combination thereof, occurs.

Solid Waste Management Act shall mean the Georgia Comprehensive Solid Waste Management Act codified at O.C.G.A. §§ 12-8-20 through 12-8-59.2, as the same has been heretofore or may be hereafter amended.

Yard trimmings means leaves, brush, grass clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance other than mining, agricultural, and silvicultural operations.

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-89. - Permit required.

- (a) All solid waste generated or otherwise found within the City of Dalton, Georgia, shall either be collected:
 - (1) By the city or its designees, or
 - (2) By persons holding valid collector permits for such activity, granted in accordance with this division. Each such collector permit shall expire on March 1 of the calendar year following the issuance date of the initial permit issued pursuant to this division. Any collector permit holder desiring to renew an existing permit shall complete and submit to the authority the application described in section 94-90 not more than 90 days nor less than 60 days before the expiration date thereof. A collector permit issued pursuant to the provisions of this division shall be a mere grant or privilege to carry on the business during the term of such permit and subject to all terms and conditions imposed by this division and related laws and other ordinances and resolutions of mayor and council of the City of Dalton, Georgia, or the authority.
- (b) This division shall not be construed to require a permit for the transportation of waste through the city, so long as such waste was not generated within the borders of the City of Dalton, Georgia.

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-90. - Collector permit application, issuance, and appeal procedures; fees.

- (a) Within 45 days after the effective date of this division, each collector must submit an application for a collector permit to the authority on a form approved by the executive director. The applicant shall, under penalty of perjury, certify that all information contained in the permit application and all information submitted in connection with the permit application is true and correct. At a minimum, the application for a collector permit shall require a collector to provide the following information:
 - (1) The name, address and telephone number of the applicant.
 - (2) A list of all vehicles proposed to be used in the City of Dalton, Georgia, for the purpose of collecting solid waste, including the following information for each vehicle:
 - a. The state motor vehicle registration number;
 - b. Description of chassis by year and manufacturer;
 - c. Description of the body by year and manufacturer;
 - d. The legal weight limit;
 - e. The volume of the body of the vehicle in cubic yards; and
 - f. A certification by the collector that it maintains insurance coverage for each vehicle in an amount not less than the minimum coverage required under Georgia law.

- (3) A list of the area or areas served by the vehicles listed in the permit application. The applicant is obligated to notify the authority of changes to the list within ten days.
 - (4) A list of all contracts and agreements covering the collection of solid waste generated within the city. This list shall include the name(s) of the parties to the contract or agreement, the term of the contract and the termination date of the contract, and the name(s) of any disposal location(s) specified in the contract or agreement.
 - (5) A copy of the notification required by O.C.G.A. § 391-3-4.06(2) solid waste management (permit by rule for collection, transportation, processing, and disposal).
 - (6) Any additional data and information deemed necessary by the authority, the executive director, or any of his or her designees in order to verify the accuracy of information contained in the permit application forms and attendant documents.
- (b) The collector permit fee shall be not less than \$100.00 per collector payable to the authority at the time the initial permit application is filed and at the time each renewal application is filed thereafter; provided, however, that the permit fee required hereunder shall be waived for the City of Dalton, Georgia. The permit fee shall be payable to the authority. The board of directors or the executive director shall be authorized to increase the collector permit fee when either the board of directors or the executive director deems such an increase necessary, provided, however, that there shall be 30 days' notice of any increase in the collector permit fee.
- (c) An application for an initial or renewed collector permit submitted pursuant to this division may be granted or denied by the executive director or his or her designee. Application may be denied only for one or more of the following reasons:
- (1) The applicant has failed to provide some or all of the information required by subsection (a) of this section.
 - (2) The applicant has supplied false information to the authority or any other employee, officer, or official of any agency, department, or authority of the City of Dalton, Georgia, Whitfield County, the State of Georgia, or the United States.
 - (3) The applicant has failed to pay any permit fee, rates, fees, penalty, or interest required or imposed under this division or has otherwise failed to comply with any of the provisions contained in this division.
 - (4) The applicant has failed to comply with any applicable legal or procedural requirements imposed by state law.
- (d) The executive director or his or her designee shall grant or deny a collector permit application within 60 days of the applicant's submission of a completed application. If the collector permit application is denied, the applicant may appeal such denial by filing a written appeal with the executive director within ten days of the denial. A hearing shall then be set before the board of directors and prior written certified notice of such hearing shall be sent to the appellant. Ten business days' written notice shall be deemed reasonable, but a shorter or longer period of notice may be authorized as the board of directors may deem justified by the circumstances. Unless the circumstances justify otherwise, the hearing shall be held within 30 days of the appeal being filed with the executive director. The board of directors may affirm, reverse, or modify the permitting decision.

(Ord. No. 07-32 § 1, 12-17-2007)

Sec. 94-91. - Collector vehicle requirements.

- (a) A collector may only use a qualifying vehicle to collect or transport solid waste within the City of Dalton, Georgia.
 - (1) To qualify, a vehicle must be owned or leased by the applicant and must be listed in the permit application described in section 94-90. If a collector obtains a vehicle that the collector intends

to use for purposes of collecting solid waste after the permit application is filed, the collector shall provide the information required by subsection 94-90(a) to the authority on forms approved by the executive director within ten days of the acquisition, purchase or lease of the qualifying vehicle.

- (2) A qualifying vehicle shall have the business name, business address, and/or telephone number, tare weight and vehicle identification number painted or permanently affixed to each side of the vehicle in letters and numbers at least three inches in height. When roll-offs are used, the tare weights of the collection vehicle must appear on the collection vehicle and the tare weight of each box must appear on each roll-off container. A regularly used business logo may also be displayed. No other names or numbers, not required by law, shall be displayed.
- (b) Vehicle construction and maintenance. Solid waste disposal vehicles utilized by collectors of solid waste must meet the following minimum requirements both prior to and after the issuance of a permit:
 - (1) The collection vehicle body shall be capable of being readily emptied.
 - (2) The collection vehicle shall be kept in a sanitary condition.
 - (3) The collection vehicle must be so equipped that all loading openings on the bodies have tightly fitting doors or covers which latch, clamp or fasten to keep them closed and rubber or other suitable gasket to render them leakproof, spillproof, dustproof and odorproof to the maximum extent practicable.
 - (4) Roll-off boxes must be of welded construction and doors must be tightly fitted so as to render them leakproof and spillproof. Provisions shall be made to facilitate application of a tightly fitting tarpaulin cover or diaper.
 - (5) All unloading doors must be equipped with chains to keep them securely fastened in an open position when unloading.
 - (6) The collection vehicle shall be equipped with heavy-duty front hooks, loops or shackles, good and serviceable tires and other accessories as necessary for operation and/or navigation in or about any solid waste handling facility operated by the authority.
 - (7) Each collection vehicle used or proposed for use by a collector together with the contents of any collection vehicle shall be subject at all times to inspection by law enforcement personnel and the authority prior to discharge of the contents.
 - (8) Each collector must ensure that each collection vehicle contains accurate documents available for inspection which identify the city, county, and state of origin and nature of the solid waste contents of the vehicle.

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-92. - Transporting waste.

Each collector shall comply with the following requirements of transporting solid waste generated in the city:

- (a) Solid waste shall be suitably enclosed or covered to prevent littering, spillage of solid waste or fluids, and infiltration of rainwater. Tarpaulins must be used to cover compactor box openings, roll-off tops, or other openings. Tarpaulins must be kept in good repair at all times.
- (b) Any spillage of solid waste on the roads leading to or on any solid waste handling facility is the sole responsibility of the person transporting such waste and shall be immediately cleaned and removed by the person transporting such waste. Any and all costs incurred by the authority or the city related to any such spillage shall be immediately remitted to the authority or the city by the person transporting such waste. This provision is in addition to any penalties authorized elsewhere by any other provision of law.

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-93. - Disposal of waste.

- (a) Except as otherwise specifically provided in this article, each person who collects solid waste generated within Whitfield County (collector) shall dispose of such waste at a solid waste handling facility operated by the authority. This section shall not be construed to prohibit the source separation of materials from solid waste prior to collection of such solid waste for disposal.
- (b) The board of directors shall have the authority to grant conditional waivers of the solid waste disposal requirements in subsection (a) to a collector if the collector can demonstrate, to the board's satisfaction, that a waiver is necessary to achieve a particular customer's (generator's) internal policy objective and that the waiver meets the criteria of subsection (c). The waiver shall be for no more than 100 tons of solid waste per year for a particular generator. The granting of a conditional waiver does not constitute a permanent change in solid waste disposal requirements. The conditional waiver can be revoked by the board of directors of the authority if it does not meet the criteria. Waivers must be renewed annually.
- (c) A permit for a conditional waiver shall be approved or denied after due consideration is given to the following criteria:
 - (1) Whether the collector is able to provide the authority with sufficient information from the generator to demonstrate that the generator has an internal policy objective that requires that solid waste be delivered to a facility other than that operated by the authority. The internal policy of the generator shall include both waste reduction and recycling components. The waste reduction and recycling components must be fully implemented by the generator except that which is intended to be accomplished by the requested waiver.
 - (2) Whether the proposed waiver impacts negatively or positively the city and county's ability to achieve the goals of the solid waste management plan.
 - (3) Whether the benefits of and need for the proposed waiver are greater than any possible negative effects on the goals of the solid waste management plan.
 - (4) Whether the conditional waiver will have a positive or negative environmental impact.
- (d) Any collector granted a conditional waiver under subsection (b) must submit monthly records indicating the amount of all solid waste collected from the customer (generator) on whose behalf the waiver is requested and delivered to facilities that are not operated by the authority and the location to which this solid waste was delivered. The monthly records must be verified with scale receipts from the facility where the solid waste was delivered.
- (e) Any collector granted a conditional waiver under subsection (b) must remit a fee of \$10.00 per ton for all solid waste delivered to a solid waste handling facility other than a solid waste handling facility operated by the authority. The fee shall be remitted annually, on or before the 30th day of January, based on the scale receipts for all solid waste disposed at solid waste handling facilities that are not operated by the authority in the prior calendar year.

(Ord. No. 07-32, § 1, 12-17-2007; Ord. No. 14-12, § 1, 3-2-2015)

Sec. 94-94. - Collector records.

- (a) Each collector permitted to collect solid waste in the City of Dalton, Georgia, shall keep such records, receipts, invoices, and other pertinent papers in such form as the mayor and council of the City of Dalton, Georgia, the board of directors, or any of their designees may require and for a period no less than three years. Such records, receipts, invoices, and other pertinent papers shall include, but not be limited to, documents evidencing the tonnage of waste each collector has collected within

the City of Dalton, Georgia, the solid waste handling facility or disposal site where such waste is deposited, and the date(s) of disposal.

- (b) The mayor and council of the City of Dalton, Georgia, the board of directors, or any of their designees may examine the books, papers, records, financial reports, equipment, and other facilities of any collector permitted to collect solid waste in the City of Dalton, Georgia, in order to verify compliance with this division.

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-95. - Authority solid waste facility procedures, rules, and waste acceptance policy.

- (a) *Establishment of policies and procedures.* In order for the authority to safely and cost effectively manage solid waste generated within the City of Dalton, Georgia, the board of directors shall establish policies and procedures for the acceptance of restricted waste at any solid waste handling facility operated by the authority.
- (b) *Acceptance of solid waste.* Municipal solid waste and commercial solid waste generated in the City of Dalton, Georgia, shall be accepted at any solid waste handling facility operated by the authority subject to any fees and rates established pursuant to section 94-94 of this division and any other policies and procedures established by the authority. Only industrial solid waste that has been evaluated by the authority pursuant to policies and procedures established by the board of directors may be accepted for disposal, provided that the acceptance of such waste is consistent with the Solid Waste Management Act, the Hazardous Waste Management Act, or the rules and regulations promulgated by the Environmental Protection Division under the authority of those statutes.
- (c) *Hazardous waste.* No hazardous waste will be accepted for disposal at a solid waste handling facility operated by the authority, other than household hazardous waste that has been approved for acceptance by the authority. No person shall deposit or attempt to deposit hazardous waste at any solid waste handling facility operated by the authority or on the authority's property, other than household hazardous waste that has been approved for acceptance by the authority.
- (d) *Yard trimmings.* Yard trimmings will only be accepted at a solid waste handling facility operated by the authority and in compliance with any policies and procedures of the authority, O.C.G.A. § 12-8-40.2, any successor statute, and the rules and regulations promulgated by the Environmental Protection Division under the authority of that statute.
- (e) *Other solid waste.* All other solid waste generated in the City of Dalton, Georgia, including but not limited to asbestos, bulky waste, construction or demolition waste, and scrap tires shall only be accepted at a solid waste handling facility operated by the authority or at such other solid waste handling facility as designated by the authority, in compliance with the policies and procedures established by the board of directors and any applicable rules and regulations promulgated by the Environmental Protection Division.
- (f) *Authority.* The board of directors shall have the authority to establish any other policies and procedures it deems necessary to address the solid waste management needs of the City of Dalton, Georgia, including, but not limited to, limitations of liability, reservation of rights, and general rules for the operation of authority facilities. In addition, the board of directors shall have the authority to establish penalties for violations of its rules and regulations, including, but not limited to, the temporary suspension of a collector's permit (not to exceed 30 days) and permit revocation subject to the provisions of section 94-99.

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-96. - Disposal fees.

- (a) The executive director shall establish all rates and fees collected or assessed in accordance with this division, including but not limited to tipping fees for any waste deposited at a solid waste handling facility operated by the authority.
- (b) The executive director shall annually review all rates and fees collected or assessed in accordance with the division and may adjust or eliminate any such rates and fees. Nothing herein shall be construed to prohibit the board of directors from changing such rates and fees, provided, however, that no adjustment to such rates and fees may occur without 30 days' public notice.
- (c) All fees imposed or collected by the authority shall comply with O.C.G.A. § 12-8-39 and any successor statute.
- (d) The authority is specifically authorized to require a letter of credit or a bond from any collector to ensure payment of rates and fees, including tipping fees. The board of directors shall establish the minimum letter of credit or bond amount that may be required, but in no event shall the amount of any letter of credit or bond be less than the previous month's tipping fees from the collector who is required to post the bond or provide the letter of credit.

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-97. - Emergency powers; right to assume collection.

- (a) The mayor and council of the City of Dalton, Georgia, the board of directors, or any of their designees reserve the right to assume responsibility for all or part of the collection of solid waste in the city should it be determined that this is in the best interest of the health and welfare of the residents of the City of Dalton, Georgia. Such action shall be on a temporary basis, not to exceed 30 days, until a hearing before the board taking such action is held.
- (b) Prior to the hearing described in subsection (a) above being held, notice to all affected holders of collector's permits of the time, place, and purpose of such hearing shall be given by prior certified written notice. Three business days' written notice shall be deemed reasonable, but a shorter or longer period of notice shall be authorized as the board may deem justified by the circumstances.
- (c) The proceeding shall be as informal as is compatible with due process. All interested parties, including the authority or its designee, shall be allowed to present any evidence, documents, or statements to support their position. The board will then determine whether the action described in subsection (a) above should be made permanent or whether any other action by the board is justified under the circumstances, including, but not limited to, entering into an exclusive franchise agreement for the collection of solid waste within the City of Dalton, Georgia.
- (d) Any person adversely affected by any decision made by the board pursuant to this division and desiring to appeal further must do so by writ of certiorari directly to the Superior Court of Whitfield County within 30 days of such adverse decision. There shall be no intermediate appeal to any other body.

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-98. - Enforcement and penalties.

- (a) Unless otherwise specifically provided by resolution of the mayor and council of the City of Dalton, Georgia, the enforcement of this division shall be within the jurisdiction of the city's enforcement personnel, including law enforcement personnel, employees of the city empowered to enforce codes and ordinances, and the executive director and his or her designees.
- (b) Each day a violation continues shall constitute a separate violation.
- (c) To facilitate the enforcement of this division, the executive director or his or her designees shall have the authority to request documents and information from any person generating solid waste

within the City of Dalton, Georgia, that demonstrate or otherwise evidence the solid waste such person generates or has generated in the City of Dalton, Georgia.

- (d) Subject to the limitations provided by O.C.G.A. § 36-35-6, a violation of any section of this division shall result in the following:
 - (1) A fine of not less than \$500.00 for the first violation;
 - (2) A fine of not less than \$750.00 for the second violation;
 - (3) A fine of not less than \$1,000.00 for a third violation and each subsequent violation; and
 - (4) The board of directors may, at its option, indefinitely revoke a collector's permit(s) for the fourth and all subsequent violations. Any revocation will be subject to the provisions of this section 94-98.
- (e) Any violator of this division shall be cited to the municipal court of the city.
- (f) Nothing contained in this division shall be construed to limit or constrain any federal or state agency or authority from enforcing federal or state laws and regulations, including, but not limited to, those laws and regulations regarding the generation, collection, transportation, and/or disposal of solid waste or hazardous waste in the City of Dalton, Georgia.

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-99. - Permit revocation.

- (a) To revoke a collector's permit, the executive director shall bring before the board of directors, at the next regularly scheduled meeting, a request to revoke indefinitely a collector's permit. Notice to the holder of such permit of the time, place, and purpose of such hearing shall be given by prior certified written notice. Ten business days' written notice shall be deemed reasonable, but a shorter or longer period of notice may be authorized as the board of directors may deem justified by the circumstances.
- (b) In all hearings before the board of directors conducted pursuant to this division, the following procedures shall apply; and the proceeding shall be as informal as is compatible with due process:
 - (1) The chairman of the board of directors shall read or cause to be read the charges against the permit holder. The chairman shall then read or cause to be read any response filed by the permit holder.
 - (2) The board of directors shall hear the evidence upon which the charges have been filed against the permit holder and shall not consider any additional evidence beyond the scope of these charges. The board may exclude evidence which is purely cumulative in nature.
 - (3) The order of proof shall be as follows:
 - a. The designee of the executive director shall present evidence in support of the charges.
 - b. The permit holder shall then present its evidence.
 - c. The board of directors shall allow each party to present rebuttal evidence.
 - d. The evidence of each party may be supported by the submission of pertinent documents and/or testimony.
 - (4) The permit holder and the authority may each be represented by counsel, and may present, examine, and cross-examine witnesses. Additionally, the board of directors may question both parties and all witnesses to obtain any information deemed necessary to evaluate the charges.
- (c) Upon the conclusion of the presentation of the evidence, the board of directors may indefinitely revoke the collector's permit, suspend the collector's permit for a period of time it deems justified, or

allow the collector to retain the permit with or without additional conditions that the board of directors deems justified by the circumstances.

- (d) Any person adversely affected by any revocation made by the board of directors and desiring to appeal further must do so by writ of certiorari directly to the Whitfield County Superior Court within 30 days of such adverse decision. There shall be no intermediate appeal to the City of Dalton, Georgia, or to any other body.
- (e) This section shall not apply to summons, citations, or accusations issued pursuant to subsection 94-98(d)(1)—(4).

(Ord. No. 07-32, § 1, 12-17-2007)

Sec. 94-100. - Prospective application; severability of provisions.

This division shall not have retroactive effect or application, nor shall it be construed to have such an effect or application. This division shall have prospective application only.

(Ord. No. 07-32, § 1, 12-17-2007)

Secs. 94-101—94-115. - Reserved.

DIVISION 2. - DISPOSAL OF COMBUSTIBLE WASTE^[5]

Footnotes:

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Cross reference— Environment, ch. 50.

Sec. 94-116. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Combustible solid waste means garbage, refuse or other discarded solid materials resulting from industrial operations which are combustible by combustion technology involving fixed, traveling grate and fluid-bed combustion, including but not limited to carpet scraps, sheerings, tubes and boxes, but excluding "sewage sludge" as defined in O.C.G.A. § 36-63-4(9), (1978 Ga. Laws, page 1898, § 1; 1983 Ga. Laws, page 515, § 2; 1987 Ga. Laws, page 3, § 36; 1992 Ga. Laws, page 6, § 36).

Industrial operations means any nonresidential operation or community activity.

Landfill supervisor means the individual duly appointed or delegated by the mayor and council and the county board of commissioners of roads and revenue to operate and administer the sanitary landfill under joint participation of the governing bodies of the county and the city.

Person means any corporation, partnership, limited partnership, proprietor, association, venture in whatever form or solution or co-venturer carrying on an industrial operation.

Sanitary landfill means any landfill owned or operated by the city for waste disposal and owned or operated by the city under a joint participation agreement with the county board of commissioners of roads and revenue.

Separated wastes means the classification and separation of wastes, garbage and refuse by combustible and noncombustible characteristics prior to transportation of such wastes, garbage and refuse to a sanitary landfill for disposition.

Tonnage means the bulk weight of any separate load of waste, garbage or refuse however transported to a sanitary landfill for disposal as estimated by sanitary landfill officials delegated the responsibility for enforcement of this division.

(Code 1983, § 20-41)

Cross reference— Definitions generally, § 1-2.

Sec. 94-117. - Tonnage charge.

- (a) Subject to subsection (c) of this section, there shall be assessed against the person disposing of any combustible solid waste in the sanitary landfill a tonnage charge of \$8.00 per ton on the bulk load however transported for disposal at the sanitary landfill.
- (b) Assessment and payment shall be made at the time of disposal. The assessment and collection of payment shall be enforced by the landfill supervisor.
- (c) If the person disposing of waste, garbage or refuse has separated waste, the assessment shall be made only upon the combustible solid wastes to be disposed in bulk load.

(Code 1983, § 20-42)

Sec. 94-118. - Effective date.

This division shall not become effective until the first day subsequent to the occurrence of the last of the following events:

- (1) The lawful establishment of a joint resource recovery development authority pursuant to O.C.G.A. § 36-63-1 et seq., (1978 Ga. Laws, page 1898, § 1; 1979 Ga. Laws, page 1006, § 1; 1983 Ga. Laws, page 515, §§ 1, 2; 1984 Ga. Laws, page 22, § 36; 1984 Ga. Laws, page 1694, §§ 1—3; 1987 Ga. Laws, page 3, § 36; 1987 Ga. Laws, page 1021, § 1; 1992 Ga. Laws, page 6, § 36; 1993 Ga. Laws, page 91, § 36) between the city and the governing body of the county; and
- (2) Written notification from such joint resource recovery development authority to the mayor and council and the board of commissioners of roads and revenue of the county that waste disposal alternatives to the sanitary landfill are available to industrial operations either through private concerns or a public agency.

(Code 1983, § 20-43)

Secs. 94-119—94-145. - Reserved.

ARTICLE IV. - HAZARDOUS WASTE TREATMENT, STORAGE OR DISPOSAL FACILITIES^[6]

Footnotes:

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Cross reference— Environment, ch. 50.

DIVISION 1. - GENERALLY

Sec. 94-146. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the board of zoning appeals established pursuant to the city zoning ordinance.

Hazardous waste means and includes any and all waste or material as defined in the Resource Conservation and Recovery Act of 1976, as amended, and the Georgia Hazardous Waste Management Act (O.C.G.A. § 12-8-60 et seq.), and under any applicable regulations or guidelines promulgated pursuant thereto or pursuant to any successor acts, including but not limited to the Hazardous and Solid Waste Amendments of 1984.

Hazardous waste treatment, storage and disposal facility means as provided in the Resource Conservation and Recovery Act of 1976, as amended, and the Georgia Hazardous Waste Management Act (O.C.G.A. § 12-8-60 et seq.), or as provided in any subsequent or successor acts thereto.

Owner and operator of a facility which treats, stores or disposes of hazardous waste means and includes any and all persons, proprietors, partners, corporations, organizations, associations, ventures, or other entities which treat, store or dispose of hazardous waste as defined by the Resource Conservation and Recovery Act of 1976, as amended, and the Georgia Hazardous Waste Management Act (O.C.G.A. § 12-8-60 et seq.), and under any applicable guidelines or regulations promulgated pursuant thereto or pursuant to any subsequent or successor acts of federal and state law.

(Code 1983, § 12-151)

Cross reference— Definitions generally, § 1-2.

Secs. 94-147—94-175. - Reserved.

DIVISION 2. - LICENSE

Sec. 94-176. - Required.

Every owner and operator of any facility which treats, stores, or disposes of hazardous waste, whose place of business is located within the corporate limits, shall be required to obtain a license from the city clerk in the manner specified in article II of chapter 26 of this Code.

(Code 1983, § 12-152; Ord. of 11-6-1995, § 4)

Sec. 94-177. - Condition for obtaining.

No person shall be issued a license for the operation of any facility which treats, stores or disposes of hazardous waste within the corporate limits, unless the owner and operator shall provide satisfactory evidence to the city clerk that he has, prior to making application:

- (1) Obtained a conditional use permit for the location of such facility or business from the board pursuant to applicable provisions of the city's zoning ordinance as it exists or may exist in the future; or
- (2) Otherwise made and entered with the city a contract for the siting or location of such proposed facility or business.

(Code 1983, § 12-153)

Sec. 94-178. - Fee.

Unless otherwise provided in a siting agreement under subsection 94-177(2), the regulatory fee required for any owner and operator of a facility which treats, stores, or disposes of hazardous waste shall be \$35,000.00 per calendar year, provided the city engages in monitoring the facility, payable and renewable in accordance with article II of chapter 26 of this Code.

(Code 1983, § 12-154; Ord. of 11-6-1995, § 4)

Secs. 94-179—94-205. - Reserved.

ARTICLE V. - LITTER^[7]

Footnotes:

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Editor's note— Ord. No. 03-02, § 1, adopted Feb. 17, 2003, amended art. V in its entirety and enacted similar provisions as set out herein. The former art. V derived from Ord. of 4-19-1999(2), §§ 1(15-33)—1(15-35); and Ord. No. 01-01, § 1(15-34(a)(3)), adopted March 5, 2001.

Sec. 94-206. - General provisions.

- (1) *Purpose and intent.* The purpose of this article is to provide for the public health, safety, and general welfare through the regulations and prevention of litter. The objectives of this article are: (1) to provide for uniform prohibition throughout the city of any and all littering on public or private property; and (2) to prevent the desecration of the beauty and quality of life of the city and to prevent harm to the public health, safety, and general welfare, including the potential degradation of water and aquatic resources caused by litter.
- (2) *Applicability.* This article shall apply to all public and private property within the city.
- (3) *Compatibility with other laws.* This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this article shall be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule or regulation, or such other provision of law, whichever provisions are more restrictive and impose higher protective standards for human health or the environment shall be considered to take precedence.

(Ord. No. 03-02, § 1, 2-17-2003)

Sec. 94-207. - Definitions.

Litter. Any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind and description which are not "waste" as such term is defined in O.C.G.A. § 16-7-51, paragraph 6.

Person or persons. Any natural person or any entity, such as, but not limited to, a corporation, partnership, joint venture, limited liability company or business association.

Public or private property. The right-of-way of any road or highway; any body of water or other water course; waterways and drainage systems; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial or farm properties.

(Ord. No. 03-02, § 1, 2-17-2003)

Sec. 94-208. - Prohibition against littering on public or private property.

- (a) *Public or private property.* It shall be unlawful for any person or persons to throw, dump, sweep, push, blow, deposit, or leave or to cause or to permit the throwing, dumping, sweeping, pushing, blowing, depositing, or leaving of litter on any public or private property in the city or any waters in the city unless:
- (1) The property is designated by the State of Georgia or by any of its agencies or political subdivisions for the disposal of such litter and such person is authorized by the proper public authority to use to such property; or
 - (2) The litter is placed in a receptacle or container installed on such property; or
 - (3) The person is the owner or tenant in lawful possession of such property or has first obtained the consent of the owner or tenant in lawful possession or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.
- (b) *Waterways and stormwater drainage systems.*
- (1) It shall be unlawful for any person or persons to throw, dump, sweep, push, blow, deposit, or leave or to cause or to permit the throwing, dumping, sweeping, pushing, blowing, depositing, or leaving of litter in any public or private gutter, street, right-of-way, waterway, or stormwater collection system within the city; and
 - (2) It shall be unlawful for any person or persons to dump raw human waste or wastewater of any sort, used motor oil, and any other contaminated liquid into any public right-of-way, waterway, or stormwater collection system within the city. This includes dumping from any train, aircraft, motor vehicle, or vessel unless otherwise authorized by law.
- (c) *Distribution of handbills and unsolicited newspapers.* It shall be unlawful for any person or persons who have thrown, deposited, left, placed or caused to be thrown, deposited, left or placed any commercial or noncommercial handbill or unsolicited newspaper on any public or private property within the city to fail to timely retrieve such handbill or unsolicited newspaper not retrieved by the occupant or owner of the property upon which the handbill or unsolicited newspaper is deposited. Provided, however, the provisions of this subsection shall not apply to an entity that distributes a newspaper within the city on a weekly or more frequent basis and maintains a business office within the city, maintains a current city occupational tax certificate, and, within its business office, maintains a current list of the addresses to which distribution is made and a current list of addresses of property owners or occupants who have requested that publications not be delivered to the address. The lists required to be maintained pursuant to this subsection shall be available to the public for inspection during the normal business hours of the entity.

(Ord. No. 03-02, § 1, 2-17-2003; Ord. No. 03-07, § 1, 4-7-2003)

Sec. 94-209. - Violations, enforcement, and penalties.

- (a) *Violations.* It shall be unlawful for any person to violate any provision, or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in a manner provided by law.
- (b) *Evidence.*

- (1) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this article, it shall be prima facie evidence that the operator of the conveyance has violated this section.
 - (2) Except as provided in subsection (1) of this section, whenever any litter which is dumped, deposited, thrown, or left on public or private property in violation of this article is discovered to contain any article or articles, including, but not limited to, letters, bills, publications or other writing which display the name of the person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this article.
 - (3) Failure of a person or persons who has thrown, deposited, left, placed or caused to be thrown, deposited, left, or placed any commercial or noncommercial handbill or unsolicited newspaper on any public or private property within the city to retrieve such handbill or newspaper by noon of the day following the day of the deposit of such handbill or newspaper shall be prima facie evidence of the violation of this ordinance.
 - (4) Any handbill or unsolicited newspaper that remains on public or private property past noon of the day following the day of its deposit [that] contains any writing which displays the name of the person thereon in such manner as to indicate that the person is the publisher or responsible person for such handbill or unsolicited newspaper, it shall be a rebuttable presumption that such person has violated this article.
- (c) *Penalties.* Any person who violates this article shall be guilty of a violation and, upon conviction thereof, shall be punished as follows:
- (1) By a fine of not less than \$200.00 and not more than \$1,000.00; and
 - (2) In addition to the fine set out in subsection (1) above, the violator shall reimburse the city for the reasonable cost of removing the litter, handbill, or unsolicited newspaper and such litter, handbill, or unsolicited newspaper is removed by the city; and
 - (3) In the sound discretion of the court, the person may be directed to pick up and remove litter from any public street or highway or public right-of-way, for a distance not to exceed one mile.
- (d) *Enforcement.* All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this article.

(Ord. No. 03-02, § 1, 2-17-2003)