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**MEMORANDUM**

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**TO:** HONORABLE MAYOR AND CITY COUNCIL

**CC:** JOSHUA M. TETZLAFF, CITY ADMINISTRATOR

**FROM:** KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR  
ROBIN PIKAL, FINANCE DIRECTOR

**SUBJECT:** INTRODUCTION OF ORDINANCE NO. 346 AMENDING CHAPTER 53 OF THE CITY CODE RELATING TO REFUSE

**DATE:** NOVEMBER 30, 2023

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As the Council is aware, one of the City Code amendments listed on the Council's 2023 visioning document was to related to ensuring the city's garbage/refuse collection ordinance was up to date and functioning as desired by the City Council.

Over the past couple of months, city staff has worked with Scott Riggs and Dave Anderson of Kennedy and Graven to draft proposed amendments to the City's existing refuse ordinance that ensure the refuse ordinance complies with current state statutes and ensuring that the City has proper agreements in place with all haulers that service the city.

The existing refuse ordinance limited the City to one hauler per 7,000 residents. For many years, what was occurring is that there was one residential hauler (Laker's New Prague Sanitary) and possibly multiple commercial haulers (depending on the year – in 2023 Waste Management and Laker's both obtained commercial hauler licenses).

In past discussions with the Council, the direction given to staff was to maintain one residential hauler for the City and to continue to allow multiple commercial haulers (essentially maintaining the status quo but updating the ordinance to clarify the language as such). Additionally, clear language was added to the ordinance to require all haulers to enter into an agreement with each hauler which will address rates, insurance, indemnification, and community clean up events.

On 10/31/23, Ken Ondich and Robin Pikal met with Rob Hennes of Laker's New Prague Sanitary to discuss the drafted refuse code amendments and Mr. Hennes did not have any objections to the changes. Also discussed at this meeting was a change that would be made whereby the City would no longer charge a \$5.50/mo base garbage fee on utility bills because all but \$0.15 of this amount is being remitted to Laker's each month to cover recycling and city wide clean up event costs. The goal is to instead collect a smaller amount on utility bills to possibly only cover costs towards the compost site/organics site with the remainder being billed directly by Lakers. Staff is still working to determine what this amount should be with the idea that there not necessarily be a net increase between the existing base rate and what will be split up between the City and Laker's billing.

Also attached for review is a template of a hauler agreement (can be modified for residential or commercial haulers). One provision in the template would only apply to Lakers as the residential hauler related to city wide clean up day and Christmas tree collection. Each license will need to be approved for each hauler individually by the City Council once the ordinance amendment is approved.

Staff would like the council to review and discuss the proposed ordinance amendments for introduction tonight which would be brought back to a future city council meeting for a second reading and adoption.

### **Recommendation**

Staff would like the Council to introduce and conduct a first reading of the proposed ordinance amendment at tonight's meeting.

### **Attachments:**

1. Proposed Ordinance #346 Amending Chapter 53 Relating to Refuse
2. Template Hauler Agreement

**ORDINANCE NO. 346  
CITY OF NEW PRAGUE**

**AN ORDINANCE AMENDING CHAPTER 53 OF THE NEW PRAGUE  
CITY CODE REGARDING REFUSE COLLECTION**

**THE CITY COUNCIL OF THE CITY OF NEW PRAGUE, SCOTT AND LESUEUR,  
COUNTIES, MINNESOTA ORDAINS:**

**SECTION 1.** Chapter 53 of the City Code of the City of New Prague is hereby amended by deleting the ~~stricken~~ language and adding the double-underlined language as follows:

**Chapter 53: REFUSE**

~~53.01 Definitions~~

~~53.012 Refuse; Collection and storage of refuse and garbage~~

~~53.023 Vehicles for hauling refuse~~

~~53.034 Pickup site~~

~~53.045 License required~~

~~53.056 Application for license; renewals; fees and agreement~~

~~53.067 Revocation or suspension of license~~

~~53.08 Payment~~

**~~53.01 DEFINITIONS.~~**

~~(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~**REFUSE.** Includes any combustible waste material, trade waste, garbage, paper, leaves or other similar substances as may be defined as refuse in the State Pollution Control Agency Solid Waste Regulations, SWI (12), which definition is hereby adopted by reference pursuant to M.S. § 471.62, as it may be amended from time to time.~~

~~**OPEN BURNING.** The burning of any material whereby the resultant combustible product is emitted directly into the open atmosphere without passing through an adequate stack, duct or chimney, in accordance with the Minnesota Pollution Control Agency Regulation 368.2, as amended.~~

~~(B) No person shall dispose of refuse by open burning, or cause, suffer, allow or permit open burning of refuse in the city.~~

**53.012 REFUSE; COLLECTION AND STORAGE OF REFUSE AND GARBAGE.**

(A) For the purpose of this chapter, “refuse” shall mean solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection ~~the following definitions shall apply unless the context clearly indicates or requires a~~

different meaning.

~~**REFUSE AND GARBAGE.** Includes organic waste, empty metal cans, empty glass bottles and jars remaining or resulting from the preparation of food for household use, organic spoiled or decayed food, together with household paper waste and residential lawn, tree and shrubbery cuttings and trimmings, clothing and household refuse, and any other rejected or useless items fit only to be thrown out or away.~~

(B) It shall be the duty of every tenant, lessee, owner or occupant of every private dwelling house, store, hotel or restaurant, and the owner of every other type of property and of every other person having refuse which is on the premises, to at least once a week deposit the refuse with the refuse collecting service.

(1) ~~Garbage and r~~Refuse shall be kept in suitable and sufficient ~~cars or~~ receptacles made of metal or plastic with suitable handles and tight fitting covers. ~~The receptacles shall not be of more than a 30-gallon capacity, and the aggregate weight of each receptacle and contents shall not be more than 75 pounds.~~ Each of the receptacles shall be maintained and clean, and kept in a state of repair which will prevent leakage. ~~Tree branches shall be bound in bundles not more than two feet in diameter and three feet in length. All organic garbage shall be tightly enclosed in a paper bag or wrapper before depositing the same in the receptacle.~~ Yard waste must be brought to the City's yard waste site for proper disposal and may not be placed in refuse receptacles. While not mandatory, organics may be brought to the City's organics waste collection site.

(2) No person shall accumulate or permit to accumulate any refuse which shall constitute a nuisance by reason of appearance, odor, sanitation, possible littering of neighboring properties or a fire hazard.

### **53.023 VEHICLES FOR HAULING REFUSE.**

All persons and entities hauling or conveying refuse for hire shall haul the same in suitable vehicles provided with end and sideboards of sufficient height to prevent any part of the load from falling or leaking into or upon any public street or alley in the city. The vehicles shall at all times, except when loading or unloading, be kept covered with sufficient canvas, metal or wooden covers.

### **53.034 PICKUP SITE.**

All pickups of refuse ~~and garbage~~ shall be made inat the curb. The city may direct other locations as practical.

### **53.045 LICENSE REQUIRED.**

No person or entity shall engage in the business of residential or commercial refuse collection in the city ~~unless he or she shall first pay without paying~~ the licensing fee herein prescribed and secure securing and maintaining a valid residential or commercial hauling license from the city, as the case may be, to operate his or her business collect said refuse.

### **53.056 APPLICATION FOR LICENSE; RENEWALS; FEES AND AGREEMENT.**

(A) Applications for a license or a license renewal to haul or convey residential or commercial refuse and garbage in and from the city shall be in writing and be filed with the City Administrator, or its designee, and shall state the type of license requested, the number of vehicles proposed to be used, the type or name of unit to be used, the name of the owner or the licensee, the charge which the person proposes to make for the hauling of refuse and the kind of service proposed to be given to customers, and the schedule of proposed residential and ~~business~~commercial pickups, as applicable. Rates to be charged shall also be filed with the City Administrator, or its designee, and made available for public inspection. ~~The applicant shall file with his or her~~its application a certificate of liability insurance on each vehicle involved. ~~Before the license shall be issued, the licensee shall agree to hold the city harmless and shall agree to defend and indemnify the city, and the city's employees and agents, for any claims, damages, losses, and expenses related to the work under the license. The city shall be named as an additional insured under that insurance for the services provided under the license. The licensee's contract of insurance shall be the primary insurance for the city and the license or insurance company shall provide a certificate of insurance which verifies the existence of the insurance required, including provisions to hold the city harmless and defend and indemnify the city. The insurance shall provide coverage up to \$300,000 for any single claim and \$1,000,000 for any number of claims in a single occurrence.~~

(B) The ~~annual~~ license fee for the residential and commercial licenses shall be established in the city's fee schedule ~~is \$100 for the first vehicle proposed to be used in the hauling and conveying of refuse and \$25 for each additional vehicle used thereafter~~. All licenses shall remain valid for no longer than three years and shall expire on December 31 of their expiration year, and the first three-year license term shall begin on January 1, 2024. Renewal applications shall be filed with the City Administrator, or its designee, no later than 60 days prior to expiration, the thirty-first day of the thirty-sixth month following the issuance of the license. One residential license may be granted for every 7,000 residents of in the city. Beginning on January 1, 2024, prior to being issued a residential or commercial license, a hauler shall enter into an agreement with the city that meets all city requirements, and such agreement shall include, without limitation, terms and conditions related to rates, insurance, indemnification, and community cleanup day events.

### **53.067 REVOCAION OR SUSPENSION OF LICENSE.**

~~The~~ A license to haul or convey residential or commercial refuse or garbage, after issued, may be revoked or suspended by the City Council for a violation of this chapter, or for any other violation state or local law regarding public health, without notice in the case of the conviction in a court of competent jurisdiction of the licensee on a complaint alleging the violation of this chapter or alleging the violation of the provisions of the city or the state regarding public health. Further, ~~the license may be revoked at any time by the City Council upon a hearing, provided that the licensee shall be given at least 30 days written notice of the hearing and shall have an opportunity to appear in person or by agent or attorney and present evidence relative to the matter under consideration.~~

**53.08 PAYMENT.**

The expense of refuse collection may be paid to the collector monthly by the owner, agent, occupant, or tenant of the premises from which the refuse is collected, and the fee as determined therefore shall be separately designated and added to the monthly statement of the City Utilities Commission, and the Commission shall monthly remit to the licensee the monies thereby collected.

**SECTION 2.** The “Miscellaneous Licenses” section of the City’s Official Fee Schedule is hereby amended by adding the double-underlined language and deleting the ~~stricken~~ language as follows:

<b>MISCELLANEOUS LICENSES:</b>	
Commercial Refuse Hauler License <del>(annual)</del> (up to 3 year license)	\$150.00 <del>for first vehicle, \$25 for each additional vehicle</del> per year
<u>Residential Refuse Hauler License (up to 3 year license)</u>	<u>\$150.00 for first vehicle, \$25 for each additional vehicle</u> per year

**SECTION 3.** This Ordinance shall take effect and be in force upon its publication, in accordance with Section 3.13 of the City Charter.

Introduced to the City Council of the City of New Prague, Minnesota, the 4th day of December, 2023.

The required 10 days posted notice was completed on the City Website and City Hall Bulletin Board on December 5th, 2023.

Passed by the City Council of the City of New Prague, Minnesota, the 18th day of December, 2023 and to be published on the 28th day of December, 2023.

\_\_\_\_\_  
Duane J. Jirik, Mayor

ATTEST:

\_\_\_\_\_  
Joshua M. Tetzlaff, City Administrator

**[COMMERCIAL/RESIDENTIAL] HAULER LICENSE AGREEMENT**

THIS [COMMERCIAL/RESIDENTIAL] HAULER LICENSE AGREEMENT (the "Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of New Prague, a Minnesota municipal corporation (hereinafter, the "City"), and \_\_\_\_\_, a \_\_\_\_\_ (hereinafter, the "Hauler").

WITNESSETH:

WHEREAS, consistent with Chapter 53 of the City Code of the City of New Prague, the City and the Hauler desire to enter into this Agreement for licensed [commercial/residential] garbage and refuse collection within the City; and

WHEREAS, both the City and Hauler have concluded that it is in the best interests of both parties to enter into the following Agreement, including the terms and conditions hereinafter set forth, to ensure that all hauling activities performed by the Hauler in the City are conducted in accordance with all applicable requirements.

NOW, THEREFORE, the parties hereto do mutually agree as set forth below:

A. Terms and Conditions for License.

1. Consistent with Chapter 53 of the City Code of the City of New Prague and Minnesota statutes, the City has issued or will issue Hauler a license to collect garbage and refuse in the City, as provided in this Agreement. All such services shall be provided in a manner consistent with the level of care and skill ordinarily exercised by professional waste haulers providing similar services.
2. The Hauler acknowledges that the license to collect and haul garbage within the City is expressly conditioned on Hauler strictly adhering to all requirements, terms and conditions contained in this Agreement, Chapter 53 of the City Code of the City of New Prague, and any other applicable state and local law.
3. The Hauler must file with the city administrator evidence of (i) commercial liability insurance with minimum amounts equal to the City's tort liability limits set forth in Minnesota Statutes, chapter 466, as amended; (ii) commercial automobile liability insurance covering all owned, hired, and nonowned automobiles with minimum amounts equal to the City's tort liability limits set forth in Minnesota Statutes, chapter 466, as amended; and (iii) workers' compensation as required under state law. Any insurance policy required under this section shall remain in full force and effect at all times that the Hauler is licensed by the City. All policies shall contain a provision requiring the City to be notified at least 30 days prior to the expiration or cancellation of any insurance policy. Failure to carry the required insurance shall be grounds for termination of the license and this Agreement.
4. In the interest of maintaining healthful and sanitary conditions in the City, the City

may specify and assign certain areas and times for scheduled pick up on dates as determined by the City.

5. The term of this license and this Agreement shall be for three years, from \_\_\_\_\_, 20\_\_ through \_\_\_\_\_, 20\_\_, unless terminated earlier as provided herein, and with an option to extend this license and Agreement for an additional three-year time period in the sole discretion of the City.
  6. A schedule of rates to be charged during the licensed period was contained in the Hauler's license application and is attached hereto as Exhibit A. Any requested change to such rates during the license term shall be submitted to the City in writing at least 90 days in advance, and such changes shall be subject to review and approval by the City. A request for such rate increases shall include all information necessary to support the proposed adjustment, as well as any other information requested by the City including comparative rates in surrounding communities.
  7. The Hauler's pickup schedule will be approved by the City, in its sole discretion. The pickup day is \_\_\_\_\_. Any requested schedule changes shall be submitted in writing to the City for consideration by the City Council. The Hauler shall bear all costs involved in notifying customers of any approved schedule changes.
  8. [FOR RESIDENTIAL HAULER ONLY] The Hauler will coordinate and provide one annual community clean-up day event on a date approved by the City to allow property owners within the City to dispose of certain accepted solid waste items in bulk (the "Clean-Up Day Event"). The Clean-Up Day Event shall consist of the collection and disposal by the Hauler of accepted solid waste items. Additionally, the Hauler agrees to annually coordinate and provide for the collection and disposal of Christmas trees from its residential customers. No additional charges or fees may be charged by the Hauler for the services required and contemplated pursuant to this paragraph A.8.
- B. Compliance. The Hauler's operations and activities shall be in compliance with all laws, statutes, ordinances, executive orders, or regulations promulgated by a governmental authority having jurisdiction. The Hauler shall procure, at its own expense, any licenses, permits and other rights that may be required by other state and local entities for the provision of services contemplated by this Agreement.
- C. License Fee. The fee for this license shall be as provided in the City's fee schedule. Failure to pay the license fee shall be grounds for termination of the license and this Agreement. In determining the amount of the license fee, the City shall include all costs incurred by the City to administer the license and to enforce City Code provisions relating to refuse collection.
- D. Missed Pick-Ups/Customer Complaints. Whenever a customer notifies the Hauler, or the City, of a location which did not receive scheduled service, the Hauler shall service such location no later than the day following the customer notification. All customer complaints



made to the Hauler shall be answered promptly and courteously, and a record of said complaints shall be maintained by the Hauler and provided to the City upon demand. The Hauler shall meet with City staff, as requested, to address any customer complaints regarding performance of refuse collection, hauling or disposing.

- E. Assignability. The license issued by the City and this Agreement may not be assigned or transferred in whole or in part by the Hauler unless the City gives its approval prior to any proposed assignment or transfer. Any attempt to assign or transfer the license in whole or in part without prior approval of the City shall be grounds for termination of the license and this Agreement.
- F. Suspension or Revocation. The license and Agreement may be suspended or terminated by the City, in its sole discretion, pursuant to the provisions related to license suspension and revocation contained in Chapter 53 of the City Code of the City of New Prague.
- G. Hold Harmless and Indemnification; No Waiver by the City. The Hauler agrees to defend, indemnify and hold the City, its officials, employees, agents and contractors harmless from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from an act or omission (including without limitation professional errors or omissions) of the Hauler, its agents, employees, or subcontractors in the performance of the services provided by this Agreement and against all losses by reason of the failure of the Hauler fully to perform, in any respect, all obligations under this Agreement. By issuing this license or entering into this Agreement, the City does not waive its entitlement to any immunities under Minnesota statutes, case law or common law.
- I. Severability. If any clause, sentence or section of this license and Agreement is deemed invalid by any judicial, regulatory or legislative body having proper jurisdiction, the remaining provisions shall not be affected.
- I. Subcontractors. The Hauler shall not enter into subcontracts for services provided under this license and this Agreement without the express written consent of the City.
- J. Records Access. The Hauler shall provide the City and the state auditor access to any books, documents, papers, and records which are directly pertinent to the license or this Agreement, for the purpose of making audit, examination, excerpts, and transcriptions, for six years after final payments and all other pending matters related to this license and this Agreement are closed.
- K. Data Practices Act Compliance. Data provided to the City concerning this matter and/or under this Agreement shall be administered in accordance with Minnesota Statutes, Chapter 13, and all data shall be maintained in accordance with statutory guidelines. The parties acknowledge that this Agreement is public data.
- L. Choice of Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this

Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

- M. Entire Agreement. This Agreement, any attached exhibits and any addenda or amendments signed by the parties shall constitute the entire agreement between City and Hauler, and supersedes any other written or oral agreements between City and Hauler. This Agreement can only be modified in writing signed by both parties.
- N. Execution in Counterparts. This Agreement may be executed in counterparts by the parties hereto.

**[Signature page to follow]**

IN WITNESS WHEREOF, the City and Hauler have approved and executed this Agreement as of the day and year first written above.

**THE CITY**

Dated: \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Duane J. Jirik, Mayor

Dated: \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Joshua M. Tetzlaff, City Administrator

**THE HAULER**

Dated: \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT A**

**Hauling Rates for License Term**

[to be inserted]