

ORDINANCE NO. O-2021-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STEPHENVILLE, TEXAS APPROVING AN EXCLUSIVE FRANCHISE AGREEMENT WITH A CONTRACTED SOLID WASTE PROVIDER FOR THE COLLECTION, HAULING, AND DISPOSAL OR RECYCLING OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS IN THE CITY OF STEPHENVILLE, TEXAS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; PROVIDING A SEVERABILITY AND REPEALER CLAUSE AND PROVIDING AN EFFECTIVE DATE.

Chapter _____ - Solid Waste

State Law reference - Municipal solid waste, V.T.C.A., Health and Safety Code, ch. 363; Solid Waste Disposal Act, V.T.C.A, Health and Safety Code, ch. 361.

WHEREAS, it is in the public interest to ensure solid waste and recycling services are provided to the citizens of the City of Stephenville, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEPHENVILLE, TEXAS, THAT:

• **Sec. ____ - 1. – Special Contract / Franchise Agreement.**

- (a) *Special contract required.* No person shall commercially empty Municipal Solid Waste or Construction and Demolition Waste collection or recyclable containers or receptacles, or convey or transport the contents thereof on the streets, alleys or public thoroughfares of the City, without having entered into a special contract or franchise agreement with the City.

Because of the large investment in special equipment required to properly collect the solid waste of Residential and Nonresidential Customers, public convenience and necessity requires the City Council to, from time to time, enter into exclusive contracts or exclusive franchise agreements with an established solid waste or recyclable collection company for the collection of Municipal Solid Waste or Construction and Demolition Waste collection or recyclables of Residential and Nonresidential Customers. Fair and reasonable charges for the collection of solid waste or recyclables of Customers shall be charged as provided for in the applicable, approved, special contract or franchise agreement.

If the City Council approved and the City entered into a special contract or franchise agreement or amendment thereto that granted an exclusive right to an established solid waste or recyclable collection company that is in existence as of the date that this ordinance is passed and approved, then such exclusive special contract or exclusive franchise agreement is and shall be approved hereunder and the rights and powers granted to a solid waste or recyclable collection company hereunder shall be applicable to such prior approved special contract and franchise agreement and the solid waste or recyclable collection company that is a party thereto.

- (b) *Insurance required.* No special contract or franchise agreement shall be issued to any applicant until such applicant has obtained a policy of public liability insurance that adheres to the requirements of and has provided same to the City a certificate evidencing such policy. Such policy shall adhere to the requirements provided in the Franchise Agreement. The termination or cancellation of the policy of insurance required herein shall automatically revoke the permit granted under the provisions of this Chapter.
- (c) *Issuance of special contracts or franchise agreements.* Special contracts or franchise agreements may be issued to qualified applicants after review and authorization by the City's legal counsel at the City Council's sole discretion.

- **Sec. ____ - 2. – Special City Authority.**

The City or its designee shall have the authority to issue citations to any third persons, firms or corporations who shall violate such code regulating the collection and removal of Municipal Solid Waste or Construction and Demolition Waste. In the event the violator is a firm, corporation, or entity, such citation shall also be issued to the owner, operator or manager of such firm, corporation or entity. Such citation shall command the person so named to appear in the named court within thirty (30) days to answer the charge stated therein.

The City, its designee, or any exclusive franchisee or party to an exclusive special contract shall have the authority to seek injunctive relief from a court of competent jurisdiction as to and against any persons, firms or corporations who violates or aids in the violation of this code regulating the collection and removal of solid waste, including any business or person that collects or removes Municipal Solid Waste or Construction and Demolition Waste without approval or authority of the City under this Chapter.

- **Sec. ____ - 3. – Additional Definitions.**

For the purposes of this Chapter, the terms listed below shall be supplemental to the terms listed in the applicable franchise agreement and shall have the following meanings, regardless of whether such terms are capitalized in the body of this Chapter:

Customer. Any owner, occupant, tenant or person otherwise in control of any premises in the City on which Municipal Solid Waste or Construction and Demolition Waste are accumulated and from which the same is removed or required to be removed pursuant to the terms of this Chapter

Disposal or Disposal Services. The dumping or disposition of solid waste into or onto a Landfill so that the waste or any constituent thereof is introduced into the environment.

Nonresidential. The designation for any Municipal Solid Waste generator beyond a Residential Unit including, but not limited to commercial businesses, industrial businesses, contractors, rental property, construction sites, Commercial Unit, Construction and Demolition Waste, and Multi-Family Residential Unit.

Residential. Any residential dwelling that is designed for, and inhabited by, a single person or family unit and that generates and accumulates Municipal Solid Waste.

- **Sec. ____ - 4. – Penalty.**

The penalties for violations of this code set forth herein below shall be applicable in all cases of each violation of this Chapter. Each day of such violation shall constitute a separate offense and each separate violation in a given day shall constitutes a separate offense.

In addition to a restraining order and injunction prohibiting continued violations of this code, the violation of any such provision of this code regulating the collection and removal of Municipal Solid Waste or Construction and Demolition Waste by a “Nonresidential” shall be punished by a fine of not to exceed \$500.00 per offense.

In addition to a restraining order and injunction prohibiting continued violations of this code, the violation of any such provision of this code regulating the collection and removal of Municipal Solid Waste or Construction and Demolition Waste by a “Residential” shall be punished by a fine of not to exceed \$20.00 per offense pertaining to roll-out containers, and not to exceed \$200.00 per offense pertaining to containers larger than a roll-out container, such as a roll-off container.

In addition to a restraining order and injunction prohibiting continued violations of this code, the violation of any such provision of this code regulating the collection and removal of Municipal Solid Waste or Construction and Demolition Waste by a waste collector that is not approved by the City under this ordinance shall be punished by a fine of not to exceed \$500.00 per offense.

- **Sec. ____ - 5. – Duties of Residential Customers.**

- (a) *Generally.*

- (1) *Residential Customers with water meters.* The City may charge the rates, fees, and costs for each Residential possessing an active water meters within the City or extraterritorial jurisdiction of the City for the collection and removal of Municipal Solid Waste by a waste collector that is approved by the City under this ordinance in accordance with the special contract or franchise agreement entered by the City.

- (2) *Subscribe to a waste service.* If the Residential Customer is not charged directly by the City for collection and removal of Municipal Solid Waste or Construction and Demolition Waste, it shall be the duty of all Residential Customers within the City limits of the City to subscribe to a commercial solid waste collection services that is contracted by the City in accordance with this Chapter.

- (3) *Use provided containers.* Solid waste and recyclables containers, if provided by the City's contracted provider, must be used by the Residential Customer.

- (4) *Store containers.* Residential Customers shall keep all solid waste and recyclables containers inside garages, carports, or other parking structures, or outside in the immediate vicinity of such residential structure.

- (5) *Secure containers.* Every Residential Customer shall keep all Municipal Solid Waste used by customer securely closed in a manner as to prevent the scattering of the contents thereof.

- (6) *Maintain collection site.* It shall be the responsibility of the Residential Customer to ensure the collection site is clean and free of loose solid waste and debris.

- (b) *Placement of containers for Residential collection.* It shall be the duty of each Residential Customer in the City to place solid waste at locations designated for pickup as follows:

- (1) *Time of placement.* All containers shall be placed at the designated locations no earlier than the evening prior to, nor later than 7:00 a.m. on the day of scheduled collection.

- (2) *Retrieval of containers.* All containers must be retrieved from the collection location by 12:00 noon the day following the collection day.

- **Sec. ____ - 6. – Duties of Nonresidential Customers.**

- (a) *Generally.*

- (1) The City may charge the rates, fees, and costs for each Nonresidential Customer possessing an active water meter within the City for the collection and removal of Municipal Solid Waste or Construction and Demolition Waste by a waste collector that is approved by the City under this ordinance in accordance with the special contract or franchise agreement entered into by the City.

(2) Should a Nonresidential Customer within the City limits of the City need Municipal Solid Waste or Construction and Demolition Waste collection and is not charged directly by the City or if a Nonresidential Customer needs additional Municipal Solid Waste or Construction and Demolition Waste removal or collection, it shall be the duty of such Nonresidential Customer to subscribe to a commercial solid waste collection service contracted by the City. Collection of acceptable solid waste from Nonresidential premises shall be performed by the City's contracted provider. Charges for collection shall be a matter of contract between the customer and provider.

(3) *To store containers.* It shall be the duty of the owner or person otherwise in control of the Nonresidential Customer premises within the City of the City to cause all solid waste accumulated on said premises within the City of the City to be placed at a location on the premises which is readily accessible to the provider.

(4) *To secure containers.* It shall be the responsibility of the Nonresidential Customer to ensure Nonresidential containers are secure and contain only Municipal Solid Waste or Construction and Demolition Waste collection for disposal. All contents in and around a Nonresidential container are the responsibility of the Nonresidential Customer regardless of origination.

(5) *To maintain the collection site.* It shall be the responsibility of the Nonresidential Customer to keep the Nonresidential collection site clean and free of loose solid waste.

(b) *Specifications for Nonresidential waste containers.*

(1) Municipal Solid Waste or Construction or Demolition Waste collection containers, if provided by the City's contracted provider, must be used by the Nonresidential Customer.

(2) Size of containers that may be available from the City's contracted provider and frequency of collections are variable provided that said containers be sufficient to handle a majority of the Municipal Solid Waste or Construction and Demolition Waste collection generated and the collection and removal of Municipal Solid Waste or Construction and Demolition Waste as often as necessary in order to maintain such premises free of accumulations of Municipal Solid Waste or Construction and Demolition Waste. In this regard, Municipal Solid Waste or Construction and Demolition Waste collection shall be made not-less-than one time each week.

(c) *Exceptions.*

(1) Notwithstanding the foregoing, a Nonresidential business may, haul its own Municipal Solid Waste or Construction and Demolition Waste collection, provided it uses its own employees and own vehicles for hauling, and those vehicles conform to the requirements of vehicles used by permitted collectors to protect and keep the streets, alleys, and roads of the City free and clear of waste; provided, however, no business engaged in food handling, such as a restaurant, quick food or take-out food business, may haul its own Solid Waste, but must subscribe to a permitted hauler to ensure the orderly and regular removal of such Solid Waste.

(2) Those Nonresidential Customers that generate special types of waste that are not covered by a special contract or franchise agreement entered into pursuant to this Chapter shall be allowed to use any other Solid Waste collector allowed by the City or this Chapter.

- **Sec. ____ - 7. – Special Contract / Franchise Agreement.**

- (a) *Special contract required.* No person shall commercially empty Municipal Solid Waste or Construction and Demolition Waste collection or recyclable containers or receptacles, or convey or transport the contents thereof on the streets, alleys or public thoroughfares of the City, without having entered into a special contract or franchise agreement with the City.

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If the City Council approved and the City entered into a special contract or franchise agreement or amendment thereto that granted an exclusive right to an established solid waste or recyclable collection company that is in existence as of the date that this ordinance is passed and approved, then such exclusive special contract or exclusive franchise agreement is and shall be approved hereunder and the rights and powers granted to a solid waste or recyclable collection company hereunder shall be applicable to such prior approved special contract and franchise agreement and the solid waste or recyclable collection company that is a party thereto.

- (b) *Insurance required.* No special contract or franchise agreement shall be issued to any applicant until such applicant has obtained a policy of public liability insurance that adheres to the requirements of and has provided same to the City council a certificate evidencing such policy. Such policy shall adhere to the requirements provided in the Franchise Agreement. The termination or cancellation of the policy of insurance required herein shall automatically revoke the permit granted under the provisions of this Chapter.
- (c) *Issuance of special contracts or franchise agreements.* Special contracts or franchise agreements may be issued to qualified applicants after review and authorization by the City's legal counsel at the City Council's sole discretion.

- **Sec. ____ - 8. – Duties of Waste Collectors.**

- (a) All trucks or trailers used to haul Municipal Solid Waste or Construction and Demolition Waste or recyclables shall have equipment or features in place that fully contain the contents thereof.
- (b) The collection, removal and disposal of all Municipal Solid Waste or Construction and Demolition Waste or recyclables should be carried on in a systematic, efficient manner to keep the City in a clean and sanitary condition.
- (c) Collectors shall dispose of or subscribe to a permitted hauler to ensure the orderly and regular removal of Municipal Solid Waste or Construction and Demolition Waste at Landfills and/or recycling centers.

- **Sec. ____ - 9. – Severability.**

If for any reason any section, paragraph, subsection, clause, phrase, word, or provision of this Ordinance shall be held invalid or unconstitutional by final judgment of a Court of competent jurisdiction it shall not affect any other section, paragraph, subsection, clause, phrase, work or provision of this Ordinance, for it is the definite intent of this City Council that every section, paragraph, subsection, clause, phrase, work, or provision hereof be given full force and effect for its purpose.

- **Sec. ____ - 10. – Repeal.**

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

- **Sec. ____ - 11. – Effective date.**

This Ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED AND APPROVED by the City Council of the City of Stephenville, Texas, on this the _____ day of _____ 2021.