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ORDINANCE NO. 2015-01

AN ORDINANCE OF THE CITY OF SIMONTON, TEXAS, AMENDING ORDINANCE NO. 2013-05 REGULATING THE COLLECTION, HAULING AND DISPOSAL OF ALL SOLID WASTE MATERIAL WITHIN IN THE CITY BY INCREASING THE ALLOWABLE SIZE OF GARBAGE CANS AND CARTS TO 96 GALLONS; PROVIDING A CRIMINAL PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR ANY VIOLATION OF THIS ORDINANCE, WITH EACH DAY TO CONSTITUTE A SEPARATE VIOLATION; REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

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WHEREAS, the Board of Aldermen finds that the most efficient means of providing standardized collection, hauling and disposal of all solid waste material within city is to adopt a mechanism for a single franchisee to provide said services; and

WHEREAS, the Board of Aldermen deem it in the best interest of the City to provide for garbage cans and carts to contain up to 96 gallons, in conjunction with the franchise agreement with the City's proposed provider; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIMONTON, TEXAS:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The following regulations are hereby adopted:

“COLLECTION OF MUNICIPAL SOLID WASTE

I. Collection of solid waste must be done by franchisee.

(a) No one shall pick up any garbage, rubbish, refuse, or municipal solid waste within the city limits, or any construction-demolition waste generated within the corporate limits of the city, unless they are franchised by the city or operating in good standing under the franchise agreement that the city has in effect.

(b) Any person, association, firm or corporation violating any of the provisions of this section may be enjoined by a suit filed by the city in a court of competent jurisdiction and this remedy shall be in addition to other penalty provisions or remedies.

II. Definitions.

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

Bulky waste shall mean stoves, refrigerators, water tanks, washing machines, other white goods, furniture, large volumes of containerized yard waste, lumber, brush, and similar items.

Construction-demolition waste shall mean solid waste resulting from construction or demolition activities or that is directly or indirectly the by-product of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood products. Construction and demolition waste does not include hazardous waste, municipal solid waste or bulky waste.

Excluded waste shall mean wastewater treatment plant sludge, and any materials or substances that may not lawfully be disposed of at a Type I or Type IV landfill permitted by the Texas Commission on Environmental Quality (TCEQ), including, but not limited to, petroleum and petroleum products, natural gas and natural gas products, asbestos, lead and polychlorinated biphenyls, and any radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or hazardous waste substance or material, as defined by applicable federal state or local laws or regulations.

Garbage shall mean all normal and usual household and institutional solid waste products that are placed in containers for collection purposes and are usually a mixture of putrescible, non-putrescible, and noncombustible materials, such as organic wastes from food preparation and consumption, wrapping and packaging materials, metal, glass, and plastic containers, and other similar items.

Hazardous waste shall mean all waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency (EPA) under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, or so classified by any federal, state statute, rule, order or regulation.

Municipal solid waste shall mean all garbage and rubbish, but shall not in any event include any excluded waste.

Municipal solid waste collector shall mean the entity with whom the city has contracted with for the collection of municipal solid waste and construction and demolition waste generated within the city.

Rubbish shall mean all bulky waste, waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, waste paper and other products such as those used for packaging or wrapping, crockery and glass, ashes, floor sweepings, and mineral or metallic substances.

III. Terms and conditions of franchise.

(a) The terms and conditions of a franchise entered into between the city and any person, association, firm or corporation for the collection of municipal solid waste generated within the corporate limits of the city shall be as determined and agreed to by board of aldermen and such person, but the term of any such franchise shall not exceed a period of five years in duration.

(b) The terms shall include a reasonable franchise fee to the city.

IV. Standards for stockpiling pending collection.

(a) It shall be unlawful for any person stockpiling municipal solid waste pending collection to fail to comply with the following standards:

(1) Garbage cans used to store municipal solid waste shall not exceed 96 gallons in size nor 40 pounds in weight and shall be equipped with an appropriately sized lid which shall be securely attached when containing municipal solid waste, carts used to store municipal solid waste shall not exceed 96 gallons in size and shall be equipped with an appropriately sized lid which shall be securely attached when containing municipal solid waste, and shall be equipped with wheels for ease of handling;

(2) Receptacles used by commercial or industrial establishments to store municipal solid waste shall be equipped with an appropriately sized lid, which shall be securely attached when containing municipal solid waste;

(3) The total weight of bagged municipal solid waste shall not exceed 50 pounds, nor shall bags be used which lack wall strength to maintain the physical integrity of the bag when lifted by the top when full;

(4) All municipal solid waste stockpiled for collection shall be placed in a can or receptacle; provided, however, tree limbs, shrubbery debris, bush trimmings, and other yard wastes, or newspapers, magazines, or other loose-leaf paper

products may be bundled if securely tied together forming an easily handled package not exceeding four (4) feet in length, four (4) inches in diameter, and 40 pounds in weight;

(5) No person shall place for collection and transport for disposal by a municipal solid waste collector any waste deemed excluded waste;

(6) Receptacles, bags, or bundles shall be placed at curbside for collection. Curbside refers to that portion of the right-of-way adjacent to and not exceeding five feet from paved or traveled city roadways, including alleys. Receptacles, bags, or bundles shall be placed within five feet of the roadway, as near as practicable to the roadway without interfering with or endangering the movement of vehicles or pedestrians. If construction work is being performed in the right-of-way, then receptacles, bags, or bundles shall be placed as close as practicable to an access point for the collection vehicle; and

(7) Receptacles used at commercial or industrial establishments shall not be placed nearer than five feet from buildings unless an exception therefor has been granted by the fire marshal due to fire safety considerations and standards.

(8) No person shall place for collection and disposal any construction and demolition waste, except by utilizing the municipal solid waste collector's roll-off services.

V. Collection.

(a) The city has made provisions for uniform and orderly collection and removal of municipal solid waste and construction and demolition waste generated within the corporate limits of the city. Each commercial establishment and each occupied residence within the city shall be billed for such services at the rates established from time to time by city council and such bills shall be due and payable upon receipt.

(b) It shall be unlawful for any person to utilize the services of any municipal solid waste or construction and demolition waste collection service other than the collection services provided by the city itself or through its contractor. It shall be unlawful for any person to refuse or fail to pay the charges for collection services provided by the city or through its contractor.

VI. Removal required.

It shall be unlawful for any owner or occupant of property within the city to fail to remove, or cause to be removed, and lawfully dispose of all solid waste generated or accumulated on the property, other than municipal solid waste collected and disposed of by the municipal solid waste collector.

VII. Rates.

(a) The rate(s) for garbage and trash service shall be billed to the person or entity receiving such service, with the city billing for such service. Alternatively, the city may specify in the franchise agreement for the franchisee to bill the customers directly.

(b) A fair and reasonable classification of the residences, commercial buildings, and other premises in the city for fixing rates for the collection and removal of garbage and trash and the minimum rate per month for such service shall be established by the board of alderman and specified in the franchise agreement. ”

Section 3. Any person who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, may be fined an amount not to exceed \$2,000.00 per violation, with each day constituting a separate offense.

Section 4. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Simonton, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 17 day of February, 2015.



Daniel McJunkin
Mayor

ATTEST:



S. Elliott
City Secretary