

ORDINANCE NO. 01-878

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, PROVIDING DEFINITIONS; MAKING IT UNLAWFUL TO ENGAGE IN THE BUSINESS OF COLLECTING AND TRANSPORTING FOR DISPOSAL MUNICIPAL SOLID WASTE EXCEPT UNDER CONTRACT THEREFOR WITH THE CITY; PROVIDING STANDARDS FOR STOCKPILING MUNICIPAL SOLID WASTE PENDING COLLECTION; PROVIDING THAT INVOICES FOR MUNICIPAL SOLID WASTE COLLECTION ARE PAYABLE UPON RECEIPT; MAKING IT UNLAWFUL TO REFUSE TO PAY FOR SUCH COLLECTION SERVICES; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH VIOLATION AND EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

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WHEREAS, the City Council of the City of Fulshear, Texas, hereby finds and determines that the public health, safety and welfare, as well as public convenience and necessity, requires that regulations governing the stockpiling and collection of garbage, rubbish, and refuse be adopted; and

WHEREAS, the City Council further finds that the collection and disposal of garbage, rubbish, and refuse pursuant to a contract provides the City with the most effective means of ensuring that those who collect and dispose of residential garbage, rubbish, and refuse within the City do so in a manner that will not create health hazards on public streets and ways, as well as adjoining properties; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, 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. Definitions. The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. Bags – Plastic sacks designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed fifty (50) pounds.
2. Bin – Metal receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units.
3. Bulky Waste – Stoves, refrigerators, water tanks, washing machines, furniture and other waste materials other than construction debris, dead animals, hazardous waste or stable matter with weights or volumes greater than those allowed for bins or containers, as the case may be.
4. Commercial and Industrial Refuse – All bulky waste, construction debris, garbage, rubbish and stable matter generated by a producer at a commercial and industrial unit.
5. Commercial and Industrial Unit – All premises, locations or entities, public or private, requiring refuse collection within the corporate limits of the City not a residential unit.
6. Construction Debris – Waste building materials resulting from construction, remodeling, repair or demolition operations.
7. Container – A receptacle with a capacity of greater than 20 gallons but less than 35 gallons constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight fitting lid capable of preventing entrance into the container by animals or insects. The mouth of the container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed fifty (50) pounds.
8. Dead Animals – Animals or portions thereof equal to or greater than 10 pounds in weight that have expired from any cause, except those slaughtered or killed for human use.
9. Excluded Waste – Construction-demolition waste, wastewater treatment plant sludge, and any materials or substances that may not lawfully be disposed of at Type I or Type IV landfills permitted by the Texas Natural Resource Conservation Committee, 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.

10. Garbage – Any and all dead animals of less than 10 pounds in weight, except those slaughtered for human consumption; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of bulky waste, construction debris, dead animals, hazardous waste, rubbish or stable matter.
11. Hazardous Waste – Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State to be "hazardous" as that term is defined by or pursuant to Federal or State laws.
12. Municipal Solid Waste Collector – A person which the City has contract with, pursuant to Section 3 hereof, for the collection of refuse generated within the City.
13. Producer – An occupant of a commercial and industrial unit or a residential unit who generated refuse.
14. Refuse – This term shall refer to residential refuse and bulky waste, construction debris and stable matter generated at a residential unit, unless the context otherwise requires, and commercial and industrial refuse.
15. Residential Refuse – All garbage and rubbish generated by a producer at a residential unit.
16. Residential Unit – A dwelling within the corporate limits of the City occupied by a person or group of persons consisting of not more than four (4) families. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, consisting of four or less contiguous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any such residential unit shall be billed separately as a residential unit.
17. Rubbish – All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rages, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible

waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of bulky waste, construction debris, dead animals, garbage, hazardous waste or stable matter.

18. Stable Matter – All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

Section 3. Contract required. It shall be unlawful for any person to engage in the business of collecting any refuse generated within the corporate limits of the City unless such collection is done pursuant to a contract between said person and the City.

Section 4. Terms and conditions of contract. The terms and conditions of all contracts entered into between the City and any person for the collection of refuse generated within the corporate limits of the City shall be as determined and agreed to by the City Council and such person.

Section 5. Standards for stockpiling pending collection.

1. It shall be unlawful for any person stockpiling refuse pending collection to fail to comply with the following standards:
 - (a) A container used to store refuse shall not exceed 35 gallons, and shall be constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight fitting lid capable of preventing entrance into the container by animals or insects. The mouth of the container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed fifty (50) pounds;
 - (b) Bins and containers used by commercial or industrial establishments to store refuse shall be equipped with an appropriately sized lid, which shall be securely attached when containing refuse;
 - (c) The total weight of bagged refuse shall not exceed fifty (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;

- (d) All refuse stockpiled for collection shall be placed in a bag, bin, or container; provided, however, tree limbs, shrubbery debris, bush trimmings, and other yard wastes, or newspapers, magazines, or other looseleaf paper products may be bundled if securely tied together forming an easily handled package not exceeding four (4) feet in length and fifty (50) pounds in weight;
- (e) No person shall place for collection and transport for disposal by a municipal solid waste collector any waste deemed excluded waste; and
- (f) Bins used at commercial or industrial establishments shall not be placed nearer than five (5) feet from any building.

Section 6. Collection; payment required. The City has made provision for uniform and orderly collection and removal of refuse 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 will be due and payable upon receipt. It shall be unlawful for any person to refuse to avail themselves of the garbage collection services provided by the City itself or through its contractor and to refuse or fail to pay the charges for garbage collection services provided by the City.

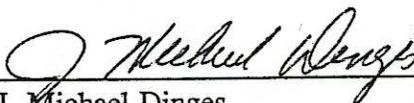
Section 7. Removal required. It shall be unlawful for any owner or occupant of property within the City to fail to remove, or cause to be removed, and lawfully dispose of all refuse generated or accumulated on the property, other than refuse collected and disposed of by the municipal solid waste collector.

Section 8. Penalty. Any person who violates any provision of this chapter, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed two thousand dollars (\$2,000.00). Each day in which any violation shall occur, or each occurrence of any violation, shall constitute as a separate offense.

Section 9. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 10. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance 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 Fulshear, 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 12th day of December, 2001.



J. Michael Dinges
Mayor

ATTEST:



Kathy Mayfield
City Secretary