

ORDINANCE NO. 34-2014-01

AN ORDINANCE OF THE CITY OF POST OAK BEND, TEXAS, ADOPTING REGULATIONS RELATING TO THE COLLECTION OF SOLID WASTE; PROVIDING REGULATIONS FOR THE COLLECTION OF MUNICIPAL SOLID WASTE FROM RESIDENTIAL AND COMMERCIAL CUSTOMERS WITH THE CITY; REQUIRING A PERMIT AND AGREEMENT FOR THE USE OF THE CITY STREETS TO CONDUCT SUCH BUSINESSES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE NOT TO EXCEED THE SUM OF \$1,000 FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Post Oak Bend has the responsibility to provide for the health and welfare of its citizens; and

WHEREAS, the City Council of the City of Post Oak Bend has determined it in the public interest of said City and its citizens to regulate the collection of solid waste in the City's limits in order to protect the public streets and provide for the general health, safety and welfare of the citizens;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POST OAK BEND, TEXAS:

SECTION 1. That the following provisions shall be and hereby adopted as the regulations of the City of Post Oak Bend, Texas, providing for the collection of solid waste.

SOLID WASTE COLLECTIONS

Section 1. Definitions

Unless otherwise noted herein, the following terms shall be defined as follows:

City means the City of Post oak Bend

Collector / Service Provider means any person, corporation or similar entity that contracts for valuable consideration to pick up or collect municipal solid waste on a regular basis from any collection point within the corporate limits of the City of Post Oak Bend.

Municipal Solid Waste means solid waste resulting from or incidental to municipal, community (residential), commercial, institutional, and recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial solid waste as defined by state or federal law

Section 2. Permit and Franchise Required

(a) No Collector / Service Provider shall collect any municipal solid waste within the corporate limits of the City without first applying for and obtaining a permit to do so from the Mayor or his/her designee. Such permit shall be on such forms as the City may determine. An annual permit fee in the amount of \$250 is due and payable at the time of application for a permit. It shall be unlawful for any person, firm or corporation to collect municipal solid waste or to engage in the business of municipal solid waste collection without first having been issued a permit to do so from the City.

(b) In addition to the foregoing permit requirement, any person, firm or corporation collecting solid waste from any residence or business within the City shall first enter into a right-of-way use agreement with the City. Such agreement shall be on such terms and conditions as the parties may mutually agree. The City may determine that such agreement may be exclusive or non-exclusive.

(c) No Collector / Service Provider shall allow any municipal solid waste to spill or fall from the Collector /Service Providers' equipment within the corporate limits of the City. In the event that spillage should occur, the Collector / Service Provider shall completely remove such spillage within 24 hours of notice of spillage occurrence.

(d) No Collector / Service Provider shall cause damage to any street or roadway within the City. In the event, the Collector / Service Provider causes damage to any street or roadway within the City, the Collector / Service Provider shall be given written notice to immediately cause such damage to be repaired under the supervision of the City engineer. Such notice shall provide that in the event Service Provider does not acknowledge responsibility for making such repairs within seven (7) days of notice, a hearing will be held by the City Council of Post Oak Bend on the question of responsibility for such damage. If at such a hearing the Council finds the damage was caused by the Collector / Service Provider and such damage was beyond normal wear and tear , the City Council may request the Collector / Service Provider to cause such damage to be repaired under the supervision of the City inspector and if such damage is not repaired within the time stated the City Council may within its sole discretion terminate Collector / Service Providers' franchise and right to use the public streets within the City to carry on its business.

(e) All Collector / Service Providers shall clearly mark all collection vehicles with the Collector / Service Providers' name, address and telephone number. All collection vehicles used by Collector / Service Providers to collect municipal solid waste within the City shall be no larger than a "single axle" type, and shall not exceed 25,000 pounds in weight, *unless specific written approval is granted by the City Council.* Collector / Service Provider must use trucks and equipment meeting the approval of the City that will prevent spillage, and damage to the streets and ways used by such trucks and equipment. Collector / Service Provider shall also abide by any City regulations with regard to placement of collection containers if it becomes necessary to establish such regulations.

(f) Collector / Service Provider shall provide the city with a certificate of insurance showing general public and motor vehicle liability coverage with limits of at least \$500,000 per person/\$1,000,000 per accident / \$100,000 property damage. Such policies shall name the City as an additional insured and shall contain provisions requiring that the City be notified within ten (10) days of an cancellation or termination of the policy. The foregoing additional insured requirement and the ten (10) day notice requirement shall be shown on the face of the certificate submitted by the Collector / Service Provider. Collector / Service Provider shall defend, indemnify, and hold City and each of its officers and employees harmless from any and all suits, actions, claims, losses or damages of any character and from all expenses incidental to the defense of such suits, actions or claims based on or arising out of any injury, damage, loss, disease, sickness, or death of any person or persons, or any damages to any property caused by any act or omission of Collector / Service Provider or its officers, agents, servants, employees or anyone else under Collector / Service Providers' direction and control, and arising out of, occurring in connection with, resulting from, or caused by the performance or failure of performance of any work or service under the collection agreement or conditions created by the performance or non-performance of said work or services.

(g) No Collector / Service Provider shall collect any municipal solid waste within the corporate limits of the City without first obtaining and holding all other permits or licenses required by any other governmental agency or political subdivision having jurisdiction over Collector / Service Providers' operations, including but not limited to the Texas Commission on Environmental Quality. Collector / Service Provider must be duly licensed or permitted to deposit municipal solid waste at or in a landfill regulated and approved by the proper State agency.

Section 3 Duty of Owners, Occupants to Maintain Premises

It shall be the duty of every person owning, controlling, managing, operating, leasing, renting or occupying any premises where municipal solid waste, garbage and/or trash accumulates to:

- (a) Provide and maintain portable containers for the placement of garbage and/or trash. Such containers may consist of galvanized iron, tin or other suitable metal or plastic cans with two handles and a tight fitting cover with a handle for removal, or such other containers as may be approved by the City Council. Garbage and/or trash shall be placed within the appropriate approved container. The capacity of such containers should not be less than twenty (20) gallons nor more than ninety-five (95) gallons.
- (b) Gather any and all garbage and/or trash from over their premises and place said garbage and/or trash in these containers and maintain and keep the area in and around the garbage containers clean and in a sanitary condition at all times.
- (c) If curbside service is used, locate the containers at curbside on the street of the premises where most convenient to the service providers on the day of scheduled collection.

SECTION 2. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinances of the City as a whole.

SECTION 3. That any person, firm or corporation violating any of the provisions or terms of this ordinance as presented hereby shall be deemed guilty of a misdemeanor and subject to a penalty as provided for in the Code of Ordinances, and upon conviction shall be punished by fine not to exceed the sum of One-Thousand Dollars (\$1,000.00) for each offense, and each and every day such violation shall continue shall constitute a separate offense.

SECTION 4. That this ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provide.

DULY ADOPTED by the City Council of the City of Post Oak Bend, Texas on the _____ day of November, 2014.

APPROVED

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM

CITY ATTORNEY

ORDINANCE NO. 34-2014-A

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DULY ADOPTED by the City Council of the City of Post Oak Bend, Texas on the ____ day of November, 2014.

APPROVED

MAYOR

ATTEST:

CITY SECRETARY