

ORDINANCE NO. 2005-8

AN ORDINANCE REGULATING THE COLLECTION OF GARBAGE, WASTE, TRASH AND OTHER ITEMS FOR DISPOSAL WITHIN THE JURISDICTIONAL LIMITS OF THE CITY OF CUMBY, TEXAS; PRESCRIBING METHODS OF COLLECTION AND DISPOSAL; DEFINING TERMS; PRESCRIBING DUTIES OF CUSTOMERS; ESTABLISHING REGULATIONS FOR RESIDENTIAL, COMMERCIAL, INSTITUTIONAL AND INDUSTRIAL COLLECTIONS; PROHIBITING LITTERING OR THE MAINTENANCE OF LITTERED PREMISES; PRESCRIBING NOTICE AND A PENALTY FOR VIOLATION HEREOF; PROVIDING A SAVINGS CLAUSE; REPEALING PORTIONS OF ALL OTHER ORDINANCES IN DIRECT CONFLICT HEREWITH; DECLARING AN EMERGENCY AND NAMING AN EFFECTIVE DATE:

BE IT ORDAINED BY THE CITY OF CUMBY, TEXAS:

SECTION I. DEFINITIONS. The following words and terms, when used in this Ordinance, shall have the meanings, respectively, ascribed to them in this Section:

- (1) Bags/Disposable container – Plastic, or any other approved material, containers/sacks designed to store garbage, waste, trash with sufficient wall strength to maintain physical integrity when lifted by the top. Outside dimensions shall be less than three (3) feet with total weight of a bag/disposable container and its contents not to exceed 35 pounds.
- (2) Bin/dumpster – Receptacle designed to be lifted and emptied mechanically. All bins/dumpsters must have attached lids.
- (3) Bulky Waste – Stoves, refrigerators, water tanks, washing machines, furniture and other waste materials other than construction debris, dead animals, special waste or stable matter with weights or volumes greater than those allowed for bins or containers, as the case may be.
- (4) Bundle – Tree, shrub and brush trimmings, newspapers and magazines, or other uniform items suitable for bundling securely tied together forming an easily handled package not exceeding four feet in length or 35 pounds in weight.
- (5) Commercial and Industrial Refuse – All garbage, waste, trash generated by a producer at a commercial and industrial unit and not generated by a residential unit.
- (6) Construction Debris – Waste building materials resulting from construction, remodeling, repair or demolition operations including dirt, concrete, rocks, bricks, roofing material or other waste building

materials.

- (7) Garbage/waste/trash – Any items acceptable by contractor for disposal at contractor’s disposal site. It is customer’s duty to be knowledgeable of accepted disposable items as per contractor’s guidelines and standards established by the State of Texas and the federal government.
- (8) Hazardous Waste – Any chemical, compound, n-fixture, substance or or article which is designated by the United States Environmental Protection Agency (USEPA) or appropriate agency of the State to be “hazardous” as that term is defined by or pursuant to Federal or State Law.
- (9) Producer – An occupant of a commercial and industrial unit or a residential unit who generates waste.
- (10) Residential Waste – All garbage, waste, trash generated by a producer at a residential unit.
- (11) Residential Unit – A dwelling within the corporate limits of the city or serviced by a City water meter by a person or group of persons comprising not more than four families. A residential unit shall be deemed when either water or domestic light and power services are being supplied thereto and shall be billed per unit.
- (12) 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.
- (13) Special Waste – Animal waste, blood products, microbiological waste, pathological waste and sharps.
- (14) Non-Standard Disposal Waste – Items prohibited or restricted in Class “C” landfills by the Texas Department of Health i.e.; special waste, batteries, and tires.
- (15) Customer – Any owner, occupant, tenant, or person otherwise in control of any premises in the City on which garbage, waste, trash or any other item being disposed of whether defined in this ordinance or not, are accumulated and from which the same is removed or required to be removed pursuant to the terms of this Ordinance.
- (16) Waste Contractor – Person or entity approved and authorized by the City Council to operate as the contractor as allowed within this ordinance. The Contractor shall abide by all the terms agreed to by the City of Cumby and

shall at all times operate within the laws of the State of Texas and of the federal government.

SECTION 2. DUTIES OF CUSTOMER

- A. It is customer's duty to be cognizant and knowledgeable of accepted disposable items as per contractor's guidelines and standards established by the State of Texas and the federal government. It is also the customer's duty to be cognizant and knowledgeable of the nature of all items intended for disposal and to obey the laws of the State of Texas and the federal government regarding the disposal of such items.
- B. Containers: Every customer shall use approved containers sufficient in number to hold the garbage, waste, trash normally accumulated on the premises of said customer. Only bags and/or bundles or disposal containers as described above and weighing no more than 35 pounds are approved for residential customers. Waste contractor shall provide bins/dumpsters for business/commercial and industrial units whenever customers request their use. Business customers not using bins will use bags, bundles, and/or disposal containers as described herein weighing no more than 35 pounds.
- C. To Secure Containers: Every customer shall keep all garbage, waste, trash containers used by it securely closed in such manner as to prevent the scattering of the contents thereof and to render said contents inaccessible to insects, rodents and other animals. All garbage, waste, trash must be placed inside container (bags or bins) or bundled. Garbage, waste, trash will not be permitted outside container, except bundles.

SECTION 3. RESIDENTIAL COLLECTION – PLACEMENT OF BAGS

- A. Premises on Alleys: If the premises from which garbage, waste, trash are to be collected is adjacent to a dedicated public alley, the customer shall place all containers adjacent to the alley at a location on the premises and easily accessible to the collector from outside said premises.
- B. Other Premises: In the event there is no alley adjacent to the premises, the customer shall place all containers for collection at curbside on the street on which said premises are addressed.
- C. Designation of Collection Point: In the event it is not practical to place containers for collection at locations hereinabove provided, the Mayor, or his duly authorized representative shall designate the point most accessible for collection in such instances.

- D. Time of Placement: All containers shall be placed at the hereinabove prescribed locations not later than 8:00 a.m. on the day of scheduled collection. In this regard, it shall be unlawful for any customer to place any containers of garbage, trash, waste at said location prior to the day before the day of scheduled collection.

SECTION 4. COLLECTION FEES

The collection and removal of garbage and waste in approved containers from premises used for residential purposes, shall be made one time each week; the number of bags not to exceed six (6) at each time; from premises used for commercial, business, and industrial purposes, in accordance with customers' demands, the contractor to evaluate the amount and frequency of pickup. The fair and reasonable charges for such services are hereby determined by the Mayor

SECTION 5. DUTIES OF COMMERCIAL AND INDUSTRIAL CUSTOMERS

- A. Approved Containers. It shall be the duty of the owner or person otherwise in control of the commercial or industrial premises within the City to cause all garbage, waste, trash accumulated on said premises to be placed in approved containers for removal by Contractor.
- B. Location of Containers. Containers shall be placed at a location on the premises which is readily accessible for pick-up, not an eye-sore to the rest of the community and approved by the Mayor. Bins/dumpsters shall be placed in an accessible, outside location on a hard surface.
- C. To Secure Containers. It shall be the duty of the owner or person otherwise in control of premises within the City to cause lids on bins to be securely closed in such a manner as to prevent scattering of the contents thereof. Garbage, waste, trash, or any other item to be disposed of whether defined in this ordinance or not, are not allowed outside the container. It shall be the duty of the owner or person otherwise in control of the premises to cause all garbage, waste, trash to be placed in bins or removed from the premises.
- D. Bins/dumpsters or trash receptacles for businesses must be placed or stored inside an enclosed setting – such as a wood fence or chain link fence slatted with appropriate material, while being accessible by the contractor for dumping.

SECTION 6. COMPULSORY GARBAGE FEE.

The compulsory garbage fee fixed herein for the collection and disposal of garbage, waste, shall be entered by the City on customer's utility statements, and such charges shall be collected as similar charges are collected. A customer who shall fail or refuse to pay the charge herein specified within twenty (20) days from the date same shall become due and payable shall have his garbage service suspended and the County Health Officer shall be notified immediately for appropriate action in accordance with the provisions of this Ordinance.

SECTION 7. COLLECTION TO BE CARRIED ON IN A SYSTEMATIC, EFFICIENT AND SANITARY MANNER.

- A. The collection, removal and disposal of all garbage, waste, trash shall be carried on in a systematic, efficient manner, keeping the entire City in a clean and sanitary condition.
- B. All garbage, waste, trash that is mixed with water or other liquids shall be drained before being put into a container. All animal matter subject to decomposition shall be well wrapped in paper or other material before being deposited in such container.

SECTION 8. DUTY OF CUSTOMER TO SEE THAT CONTAINERS EMPTIED, REPORTING REQUIREMENTS

Every customer is hereby required to maintain constant supervision and surveillance over garbage containers on his premises. If, after having been timely placed for collection, the containers are not collected, or emptied and the contents removed, as the case may be, by the contractor within a period of eight (8) hours of scheduled collection, the customer shall promptly notify the contractor. If containers are not collected, or emptied and the contents removed, within twenty-four (24) hours of notification of contractor, the customer shall promptly notify the Mayor or his duly authorized representative of this fact.

SECTION 9. PROHIBITED ACTS

A. Unlawful to Litter: It shall be unlawful for any person to sweep, throw or deposit any item defined as litter under the laws of the State of Texas and the federal government, upon or along any drain, gutter, alley, sidewalk, street, or vacant lot, or upon any public or private premise within the jurisdiction of the City of Cumby.

B. Maintaining Littered Premises: It shall be unlawful for any person owning or otherwise in control of any premises with the City to permit any of the conditions described in SECTION 9 A. hereto, to exist upon property owned or controlled by him after having actual or constructive notice thereof.

C. Open Bins Prohibited: It shall be unlawful for any person to deposit or maintain garbage, waste, trash or any other item intended for disposal, in open bins or other containers not designated as approved containers as that term is herein defined.

D. Burning Materials: It shall be unlawful for any person to deposit any burning match, charcoal, ember or other flammable substance in any container used for the disposal of garbage or trash.

F. Unauthorized Use of Commercial Bins: It shall be unlawful to use a commercial bin without authorization from the owner of the premises.

G. It shall be unlawful for any person and/or entity to dispose of, treat or intend to dispose of or treat any item in violation of the laws of the City of Cumby, the State of Texas and the federal government with such acts or intention subject to the penalties established therefore.

H. It shall be unlawful to place and/or maintain a container or holder used for the collection and or placement of garbage/waste/trash or any other item intended for disposal on or about the premises of any location within the jurisdictional area of the City of Cumby, except for the lawful use and placement of a bin//dumpster as mandated by the terms of this ordinance.

SECTION 10. DUTY OF MAYOR OR HIS AUTHORIZED REPRESENTATIVE AS TO INSPECTION AND ENFORCEMENT OF ORDINANCE.

In addition to the usual enforcement agencies of the City, it is hereby made the duty of the Mayor or his authorized representative to make inspection trips at regular intervals to determine whether or not garbage, waste, trash, or any other item being disposed of whether defined in this ordinance or not, is being properly collected, removed and disposed of as required by the provisions of the Ordinance or any other applicable health ordinance. In the event it is found that this Ordinance or any other applicable Ordinance is being violated, appropriate and timely action shall be taken to insure a full compliance with its provisions.

SECTION 11. COLLECTION AND DISPOSAL BY PERSONS OR ORGANIZATIONS OTHER THAN CONTRACTOR, AND BY CONTRACTOR.

No person or organization, other than those lawfully allowed to do so, shall empty garbage, waste, trash containers or bins/dumpsters or convey or transport garbage, waste, trash, or any other item being disposed of whether defined in this ordinance or not, on the streets, alleys or public thoroughfares, or within the jurisdictional limits of the City of Cumby, Texas.

The enumerated persons or organizations exempted from this provision are as follows, to wit:

(1) Authorized agents or employees of the City of Cumby in the exercise of their duties with respect to disposal of the City of Cumby garbage, waste, trash.

(2) Contractor, acting pursuant to contract with the City of Cumby for collection of garbage, waste, trash and the disposal thereof.

SECTION 12. SAVING CLAUSE.

If any section, part or provision of this ordinance is declared unconstitutional or invalid, then in that event, it is expressly provided, and it is the intention of the City Council of the City of Cumby, Texas, in passing this Ordinance, that all other parts of this Ordinance shall not be affected thereby and shall remain in full force and effect.

SECTION 13. PENALTY.

Duty to correct. It shall be the duty of any person, firm corporation, partnership, association of persons, owner, agent, or occupant, or anyone having supervision or control of any lot, tract, or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the city to comply with this ordinance.

Notice to correct or remove condition. In the event that any person, firm, or corporation owning, claiming, occupying or having supervision or control of any real property permits any condition to exist thereon in violation of this ordinance, the city shall notify such person, firm, or corporation of his failure to comply and direct him to correct, remedy or remove such condition within ten (10) days after such notice. Such notice shall be sent to the person, firm, or corporation at his post office address by regular mail. If the person's, firm's, or corporation's address is unknown or if notification may not be obtained by letter, then notice may be given by publication in any two (2) issues within ten (10) consecutive days in any daily, weekly, or semiweekly newspaper in comply with such notice. If an emergency is declared by the Mayor, regarding the subject of this ordinance, which affects the health and well-being of the citizens within the jurisdictional limits of the City of Cumby, the notice provision may be waived with corrective measures to proceed immediately.

Correction or removal of condition by city. If any person, firm, or corporation notified fails or refuses to correct, remedy or remove the condition specified in such notice ten (10) days after the date of notification by letter or within ten (10) days after the date of the second publication of notice in the newspaper, the city may go upon the property and do such work or make such improvements as are necessary to correct, remedy or remove such condition. The expense incurred pursuant to this section in correcting the condition of such property, and the cost of notification shall be paid by the city and charged to the owner of such property. In the event that the owner fails or refuses to pay such expense

within thirty (30) days after the first day of the month following the one in which the work was done, the city shall file with the county clerk a statement of the expenses incurred. When such statement is filed, the city shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten (10) percent; from the date the city incurs the expense. For any such expense and interest, suit may be instituted and recovery and foreclosure had by the city. The statement of expense filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in such work, all as more particularly specified in Article 4436, Vernon s Annotated Texas Civil Statutes, which is hereby adopted.

Penalty for violation of article. Any person, firm, or corporation who shall violate any of the provisions of this ordinance and does not correct said violation upon proper notice shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not to exceed two hundred dollars(\$200.00); and each offense and each day's continuance of failure to comply with these provisions shall constitute a separate and distinct offense. This section shall be in addition to the provision for abatement of said condition and charging the cost of same against the owner of the premises by the city. IF ANY SECTION, CLAUSE, OR PHRASE OF THIS ORDINANCE SHALL BE HELD FOR ANY REASON TO BE ILLEGAL, ULTRA VIRES OR UNENFORCEABLE FOR ANY REASON, THEN SUCH INVALIDITY SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS OF THIS ORDINANCE. THIS ORDINANCE SHALL SUPERSEDE ANY ORDINANCES IN CONFLICT HEREWITH AND SUCH PRIOR CONFLICTING ORDINANCES OR PARTS THEREOF ARE HEREBY REPEALED TO THE EXTENT

SECTION 14. REPEALING CLAUSE.

This Ordinance specifically repeals all other Ordinances in conflict herewith, and any amendments thereto and all other Ordinances and parts of Ordinances in conflict with terms of this ordinance.

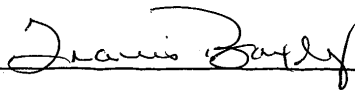
SECTION 15, DECLARING AN EMERGENCY.

Whereas an emergency is apparent for the immediate preservation of order, health, safety, and general welfare of the public, all rules and regulations requiring the reading or Ordinances more than one time on more than one occasion are hereby suspended.

SECTION 16. EFFECTIVE DATE.

This Ordinance shall become effective on the 2nd day of August, 2005 of such date being subsequent to the passage and publication

as made and provided by the City of Cumby, Texas.



TRAVIS BAXLEY, MAYOR
CITY OF CUMBY, TEXAS



MARY FRANCE
CITY SECRETARY