

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF JOHNSON CITY, TEXAS AMENDING CHAPTER 13 UTILITIES OF THE MUNICIPAL CODE OF ORDINANCES BY ADDING ARTICLE 13.07 SOLID WASTE COLLECTION AND DISPOSAL PROVIDING FOR REGULATIONS REGARDING SOLID WASTE COLLECTION; PROVIDING FOR THE ISSUANCE OF A FRANCHISE ON SAME; DECLARING A MISDEMEANOR VIOLATION WITH PENALTIES NOT TO EXCEED \$2,000; AND SETTING AN EFFECTIVE DATE

RECITALS

WHEREAS, pursuant to the Texas Constitution and State law, the City of Johnson City, Texas (“City”) has the authority to protect and promote the public health, safety and welfare, and to regulate the use of the City public rights-of-way; and

WHEREAS, pursuant to Texas Health and Safety Code Chapter 363, the City has the authority to adopt rules for regulating solid waste collection, handling, transportation, storage, processing and disposal; and

WHEREAS, the City Council of the City has determined that amendment of Chapter 13 *Utilities* of the Municipal Code of Ordinances by adding *Article 13.07 Solid Waste Collection and Disposal* to provide for the collection, removal, and disposal of solid waste and recyclable materials in the City is in the best interest of the citizens and businesses of the City and promotes the health, safety, and general welfare of the inhabitants of the City.

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

ARTICLE I. FINDINGS OF FACT

The foregoing recitals are adopted as facts and are incorporated fully herein.

ARTICLE II. AMENDMENT AND ENACTMENT

- A. The City Council hereby amends Chapter 13 *Utilities* of the Municipal Code of Ordinances by adding *Article 13.07 Solid Waste Collection and Disposal*, attached hereto as **Exhibit A** and incorporated fully herein for all purposes.
- B. The City Council hereby adopts and enacts *Article 13.07 Solid Waste Collection and Disposal* as contained in Exhibit A.

ARTICLE III. REPEALER AND SEVERABILITY

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

ARTICLE IV. EFFECTIVE DATE

This Ordinance shall be effective immediately upon approval by the City Council and publication in the Johnson City Record Courier.

PASSED and APPROVED this _____ day of _____ 2022.

Rhonda Stell, Mayor

Attest:

Whitney Walston, City Secretary

Published: Johnson City Record Courier

Date: _____

Initials: _____

CITY OF JOHNSON CITY CODE OF ORDINANCES

CHAPTER 13 UTILITIES

ARTICLE 13.07 SOLID WASTE COLLECTION AND DISPOSAL

DIVISION 1. DEFINITIONS

Sec. 13.07.001 Definitions

For purposes of this Article, the following words, terms and phrases shall have the meanings defined below:

Bag: Plastic sack with sufficient strength to maintain physical integrity when lifted by the top of the bag and designed to transport solid waste which shall not exceed thirty-five pounds (35 lbs.) when filled.

Bundle: Plant trimmings and newspaper and magazine stacks securely tied together forming an easily handled package not exceeding four feet (4') in length and weighing no more than thirty-five pounds (35 lbs.) per bundle.

Bulky Items; White Goods: Solid waste comprised of large household items, including, but not limited to, stoves, refrigerators, water tanks, washing machines, discarded bathroom fixtures, furniture, mattresses, television sets, and other household items that cannot be handled by normal solid waste processing, collection, or disposal methods. The terms do not include construction or remodeling debris in excess of one hundred pounds (100 lbs.) per item, plant materials, rocks, dirt, dead animals, brush items, hazardous, special, or infectious wastes, tires, car batteries, or stable matter.

City: the City of Johnson City, Texas.

Commercial Container; Roll-off Container: Metal or comparable material receptacle designed for use by commercial and industrial units that is to be lifted and emptied mechanically for use by commercial and industrial units. A roll-off container is considered a commercial container that is loaded onto a winch truck and not exceeding forty (40) cubic yards in volume.

Container: A receptacle with a capacity of greater than twenty gallons (20 gal.) but less than ninety-six gallons (96 gal.) constructed of plastic, metal, or fiberglass having handles of adequate strength for lifting and having a tight-fitting lid. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of the container, including its contents, shall not exceed thirty-five pounds (35 lbs.).

Recycling Container: A receptacle with a capacity of greater than eighteen gallons (18 gal.) but less than ninety-six gallons (96 gal.) constructed of plastic, metal, or fiberglass that is provided to residential units by the Contractor. Total weight should not exceed thirty-five (35) pounds when full.

Franchise: The right, privilege and authority granted to a grantee to provide solid waste disposal services in the entire area of the City and to operate and use its vehicles over, along, and across present and future streets and alleys subject to and in accordance with the City's policies and procedures governing said use.

Franchise Holder: A grantee person, company or entity approved and authorized by the City to conduct and provide solid waste disposal services throughout the City pursuant to a franchise.

Person: An individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind.

Unit: A residential, commercial, and industrial unit; occupant; or user.

- i. **Residential Unit:** A dwelling within the corporate limits of the City occupied by a person or group of persons for residential and noncommercial purposes. A residential unit shall be deemed occupied when domestic water or electric services are being supplied, however, an unoccupied home placed on the market for sale shall not be deemed occupied. The term "Residential Unit" includes "Handicapped Residential Unit".
- ii. **Commercial and Industrial Units:** A commercial or industrial structure or parcel being used for commercial purposes within the corporate limits of the City. A commercial or industrial unit shall be deemed to be occupied and requiring solid waste collection and disposal services when the unit or occupant is engaging in commercial activity and domestic water or electric services are being supplied thereto.

DIVISION 2. PROPERTY OWNER DUTY AND RESPONSIBILITY

Sec. 13.07.002 Duty of property owners

It is the duty and responsibility of an owner or tenant of real property within the City limits to keep and maintain his property in compliance with the standards of this Article and the International Property Maintenance Code, as adopted.

Sec. 13.07.003 Prohibited acts; Nuisance declared; Penalty

- (a) An owner or tenant of real property within the City limits shall keep his lot or parcel of real estate completely free and clear of dumped solid waste and recyclable materials, whether dumped, with permission or not, by the owner or another entity.

- (b) It shall be unlawful for any residential, commercial, or industrial unit or person to dump any solid waste or recyclable material or other debris in or upon any lot or parcel of real estate of any type, on any vacant property, or along any public right of way within the City limits.
- (c) Such condition of illegal dumping is hereby declared to be a public nuisance, the prompt abatement of which is a public necessity.
- (d) Notice of a violation shall be served on the unit property owner and/or tenant by the City. The notice shall advise of the violation and direct that action be taken to bring the property into compliance within fifteen (15) calendar days. Failure to comply shall be subject to penalties.
- (e) Abatement by City. In addition to seeking penalties, the City may abate the nuisance if, after notice, an owner, agent, occupant or lessee fails to remove illegally dumped waste from his private property. The property will be cleaned by the City and the owner billed for the cost. If the bill is not paid within 30 days, execution may be issued by the City against the property for the amount of the cleaning charge, and such execution shall constitute a lien on the property until the claim has been satisfied.

Sec. 13.07.004 Offense; penalty

- (a) Violation. A violation of any provision of this Division II is hereby declared to be a misdemeanor offense.
- (b) Criminal and civil penalties. A person in violation is subject to prosecution for criminal violations as well as suit for injunctive relief.
 - (1) Criminal prosecution. A person found in violation shall, upon conviction, be fined a sum of not less than \$25.00 nor more than \$2,000.00. Each day of the violation shall constitute a separate offense.
 - (2) Civil remedies. Nothing herein shall be construed as a waiver of the City's right to bring a civil action for enforcement and to seek remedies as allowed by law, including, but not limited to, the following:
 - (A) Injunctive relief to prevent specific conduct that violates this Article or to require specific conduct that is necessary for compliance;
 - (B) A civil penalty up to \$2,000.00 a day when it is shown that the defendant was notified of the violation and after receiving notice committed acts in violation or failed to take action necessary for compliance. Each day constitutes a separate offense and separate violation; and
 - (C) Other available relief.
 - (3) Costs for suit and enforcement. In any civil action, the City shall be entitled to

recover from the defendant reasonable attorney's fees, costs of suit, and any other costs of enforcement, including but not limited to, inspection costs.

Secs. 13.07.005 – 13.07.020 Reserved

DIVISION 3. FRANCHISE AND SERVICES

Sec. 13.07.021 Franchise authorized

- (a) The City Council is hereby authorized to grant as an exclusive right and privilege to operate and maintain, within the corporate limits of the City, a municipal franchise to a service provider for the collection, removal, and disposal of solid waste and recyclable material.
- (b) The City and the franchise holder shall enter into an exclusive franchise contract detailing the terms for the services and operation of solid waste collection and disposal in the City.
- (c) The franchise holder shall collect and dispose solid waste in compliance with all City ordinances, and State and Federal laws and regulations pertaining to solid waste disposal.
- (d) The franchise holder shall serve all units within the jurisdictional limits of the City in accordance with the terms of the franchise contract.
- (e) The City Council shall have the right to declare the franchise forfeited and to terminate the franchise in the event of a violation of any term of the franchise contract.

Sec. 13.07.022 Franchise required

- (a) It shall be unlawful for a person to engage in the business of collecting solid waste refuse from a unit within the City unless the person has been issued by the City a franchise and which is in force and effect.
- (b) *Exception.* This subsection does not prohibit a person from transporting and disposing of solid waste refuse from his premises or real property, provided that such refuse is transported and disposed of in compliance with this Article.
- (c) Violation of this section is declared a misdemeanor and subject to penalties as described in Section 13.07.004.

Sec. 13.07.023 Participation in franchise service required

- (a) **Service use required.** Each residential, commercial, or industrial unit or person shall utilize the solid waste and recyclable material collection, removal, and disposal services provided by the City or the City's franchise holder.
- (b) **Pickup requirements.** Each unit shall comply with the following requirements for pickup:

- (1) Each container, bag, bundle, or other solid waste container must meet the weight and packaging requirements as described in this Article;
 - (2) Each container, bag, bundle, or other solid waste container must be placed at a curbside location for collection on a scheduled collection day;
 - (3) Containers, bags, and bundles shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians;
 - (4) When construction work is being performed in the right-of-way, containers, bags, and bundles shall be placed as close as practicable to a vehicular access point for the solid waste collection vehicle to enter and exit; and
 - (5) The franchise holder may decline to collect any container, bag, or bundle that is not placed correctly along the curbside or is containerized incorrectly. In this event, the unit shall contact the City to arrange immediately for collection and disposal.
- (c) **Special Waste.** The franchise holder shall have no obligation whatsoever to collect hazardous, infectious, or special wastes. A unit or person requiring the collection and disposal of excessive or unusual items or requesting services not contemplated by this Article shall make arrangements with the City and the franchise holder for the collection and disposal of said items that are independent from those regular or routine services provided by the franchise holder.
- (d) **Fees and Payments.**
- (1) The City shall assess fees for solid waste disposal services rendered in accordance with the Municipal Fee Schedule.
 - (2) The City shall bill and collect payment from each unit for solid waste disposal services rendered.
 - (3) Each unit is responsible for making timely payments upon receipt of an invoice or statement from the City.
 - (4) A reinstatement fee may be assessed by the City on a delinquent unit account after being placed on suspended service.
 - (5) Failure by a unit or person to utilize disposal services provided by the City and franchise holder does not negate the charges for the services, nor does it relieve the unit or person of the responsibility to pay said charges even when the City or franchise holder initiates stop service for failure to pay the City or franchise holder for solid waste and recyclable material collection, removal, and disposal services.

Sec. 13.07.024 Roll-offs; Permit for large loads

- (a) Roll-offs for Waste from Commercial Use / Private Contractor.
- (1) A franchise holder shall not pickup and dispose as a part of the regular solid waste, brush item, and white good / bulky item collection and disposal services:
- i. construction and remodeling debris and other debris originating from commercial lot clearing and / or construction operations;
 - ii. brush items cut / trimmed by a commercial or private contractor; or
 - iii. bulky items and white goods resulting from work completed by a commercial or private contractor during bulky item pickup.
- (2) A unit shall make delivery and payment arrangements with the City for the collection and disposal of said items listed above utilizing a commercial container.
- (b) Roll-offs in Residential Use. A residential unit may use a roll-off container for the removal of construction debris, brush, et cetera. A residential unit shall not fill any roll-off container with dirt, rock, masonry, or other similar materials that is greater than one quarter (1/4) of the depth of the commercial container. A container whereby a residential unit can discard lesser quantities of items, also referred to as a “Bagster”, is not provided by the City or franchise holder. A residential unit shall utilize a roll-off container in lieu of a bag or “Bagster”.
- (c) Permit for Large Loads. A unit or person producing and disposing a volume of solid waste or recyclable material above the quantity limitations prescribed for disposal mechanisms in this Article or within the franchise holder’s contract requirements shall apply for and receive a written permit from the City for collection and disposal, at the unit’s or person’s expense, for the removal of the solid waste or recyclable material under conditions to be set out fully in said permit.