

ORDINANCE NO. 20090312-014

AN ORDINANCE AMENDING CITY CODE CHAPTER 15-6 RELATING TO PRIVATE SOLID WASTE HAULERS; ENFORCEMENT AND PENALTIES; AND SOLID WASTE RECEPTACLE SET OUT TIMES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 15-6-1 (*Definitions*) of the City Code is amended to add the following definitions:

PERSON means an individual, corporation, firm, government or governmental subdivision, partnership, joint venture, limited liability company, or other business entity.

PRIVATE SOLID WASTE COLLECTION SERVICE means the business of collecting, removing, or transporting solid waste from any premises within the city for a fee.

PART 2. Section 15-6-17 (*Receptacle*) of the City Code is amended to amend Subsection (F) to read:

- (F) A customer shall deliver a receptacle to the designated collection location at a public street or alley between 8:00 p.m. on the day preceding the collection day and 6:30 [7:30] a.m. on the collection day. A customer shall remove a receptacle from the collection location not later than 10:00 p.m. on the collection day.

PART 3. Section 15-6-42 (*Vehicles and Equipment*) of the City Code is amended to read as follows:

- (A) A licensee shall keep a vehicle or equipment used in a private collection service in clean, sanitary, and safe condition. The department may inspect a licensee's vehicle or equipment at any time.
- (B) A licensee may not place a mechanically-handled solid waste container on public property or a public right-of-way, except with the director's approval or the execution of a license agreement with the city [City].
- (C) Any vehicle used for transporting dry solid waste material within the city must:

- (1) be fitted with a substantial, tight-fitting enclosure that is free of any cracks or breaks and that has side boards and head boards of not less than 24 inches in height and a tail board of not less than 18 inches in height, to prevent waste material from being scattered or thrown onto the streets;
 - (2) be equipped with a closely fitting cover that must be used to prevent the escape of loose material or effluvia; and
 - (3) be equipped with any other equipment required to comply with all applicable federal and state motor vehicle safety standards.
- (D) Any vehicle used for transporting wet solid waste material within the city must:
- (1) have a tight-fitting cover to prevent spillage;
 - (2) when carrying cans to transport wet solid waste material, use only cans equipped with tight-fitting lids and holding chains so that the cans will not turn over and spill;
 - (3) not have any drain holes in the sides of the vehicle and may have drain holes in the deck of the vehicle or on containers only if they are capped to prevent spillage or leakage; and
 - (4) be equipped with any other equipment required to comply with all applicable federal and state motor vehicle safety standards.

PART 4. Chapter 15-6 (*Solid Waste Services*) of the City Code is amended to add a new Section 15-6-46 to read as follows:

§ 15-6-46 NOTIFICATION OF CHANGE OF ADDRESS OR OWNERSHIP.

A licensee shall provide written notice to the director within 10 days of a change in:

- (1) the address or telephone number of the private solid waste collection service; or
- (2) the form of the business or the executive officers of the private solid waste collection service; or
- (3) the name and address of the person designated to receive notices described in this article.

PART 5. Section 15-6-42 (*Vehicles and Equipment*) of the City Code is amended to add a new Subsection (C) to read as follows:

- (C) Before any vehicle not listed in the application for a private solid waste collection license may be placed in service, the licensee must provide written notice to the director of the proposed use of a new or additional vehicle.

PART 6. A new Section 15-6-47 (*Hazardous Waste Material*) of the City Code is added to read as follows:

§ 15-6-47 HAZARDOUS WASTE MATERIAL.

A person providing private solid waste collection service within the city shall comply with all city ordinances and state and federal laws regulating the handling, disposal, and transportation of hazardous waste materials.

PART 7. Section 15-6-54 (*Decal*) of the City Code is amended to amend Subsection (A) to read as follows:

- (A) The director shall issue a decal to a licensee for each refuse collection vehicle included in the license and each additional vehicle approved by the director under Section 15-6-42.

PART 8. Chapter 15-6, Article 6 (*Enforcement*) of the City Code is repealed and replaced to read as follows:

ARTICLE 6. MISCELLANEOUS PROHIBITIONS.

§ 15-6-111 RESTRICTIONS ON REMOVAL OF SOLID WASTE.

- (A) A person commits an offense if the person removes any dry or wet solid waste from any garbage or recycling container or receptacle, or in any way obstructs or interferes with any garbage or recycling container or receptacle in the city. This section does not apply to a City employee or agent acting within the scope of the employee's or agent's authority.
- (B) It is an affirmative defense to prosecution under Subsection (A) of this section that the person was:
 - (1) a licensee under this article performing solid waste collection service in compliance with the terms of this article; or

- (2) any owner or legal occupant of the premises on which the container or receptacle is located.

§ 15-6-112 ACCUMULATIONS AND DEPOSIT OF WASTE PROHIBITED.

- (A) A person commits an offense if the person deposits, causes to be deposited, or permits to accumulate any dry or wet solid waste upon any public or private premises within the city in such a manner as to emit noxious or offensive odors or to become unsanitary or injurious to public health or safety.
- (B) A person commits an offense if the person causes or permits any private solid waste collection vehicle, dumpster, or roll-off container or the contents of such vehicle, dumpster, or roll-off container to be maintained in a condition that is foul, offensive, or otherwise hazardous to the public health or safety.

§ 15-6-113 MOVING PUBLIC TRASH RECEPTACLES PROHIBITED.

- (A) A person commits an offense if the person moves a public trash receptacle from its location on the sidewalk or other public right of way.
- (B) This section does not apply to a city employee or agent acting within the scope of the employee's or agent's authority.

§ 15-6-114 DISPOSAL OF CERTAIN SOLID WASTE IN PUBLIC TRASH RECEPTACLE PROHIBITED.

A person commits an offense if the person deposits solid waste generated from dwelling units or commercial establishments into a public trash receptacle.

§ 15-6-115 REMOVING RECEPTACLE PROHIBITED.

- (A) A person commits an offense if the person removes a receptacle provided by the City for use at a customer's premises from the customer's premises.
- (B) This section does not apply to a City employee or agent acting within the scope of the employee's or agent's authority.

PART 9. Chapter 15-6, Article 7 (*Enforcement and Penalties*) of the City Code is added to read as follows:

ARTICLE 7. ENFORCEMENT AND PENALTIES.

§ 15-6-121 NOTICE.

Notice required under this Article shall be given by certified or registered mail, return receipt requested, and shall be prima facie evidence that the recipient received notice.

§ 15-6-122 INVESTIGATIONS.

The department and the Police Department may conduct investigations into the operations of private solid waste collection services operating in the city to determine whether the services comply with this chapter and other applicable laws.

§ 15-6-123 ENFORCEMENT.

The department and the Police Department shall enforce this chapter and rules adopted under this chapter.

§ 15-6-124 CITATION.

- (A) An enforcement officer may issue a citation to a person the officer reasonably believes has engaged in conduct that violates this chapter.
- (B) A citation issued under this section must be on a form prescribed by the municipal court clerk that includes space for the following information, if known, to be indicated, as applicable:
 - (1) the name and address of the person cited;
 - (2) the type and number of a license issued to the person under this chapter, if any;
 - (3) the offense for which the person is charged;
 - (4) the date, time, and location of the offense;
 - (5) the state license plate number of the vehicle;
 - (6) the appearance date;
 - (7) a statement ordering the person receiving the citation to respond to the citation at municipal court on or before the appearance date indicated on the citation;
 - (8) a statement of the person's promise to respond to the citation by the appearance date indicated on the citation, together with a place for the person cited to provide the person's signature; and

- (9) other information as determined by the director.
- (C) The enforcement officer shall retain the original of the citation for filing in Municipal Court, shall request the signature of the person accepting receipt, and provide a copy of the citation to that person. If the person refuses to sign or receive the citation or is not present to receive the citation, the enforcement officer shall:
 - (1) leave a copy of the citation on the vehicle in a prominent place; or
 - (2) mail a copy of the citation, as applicable, to:
 - (a) the person cited;
 - (b) the licensee under this chapter;
 - (c) the registered owner of the vehicle; or
 - (d) the holder under whose authority the vehicle is operated.

§ 15-6-125 DUTY TO RESPOND TO CITATION.

- (A) On or before the appearance date indicated on the citation, a person cited under this chapter shall submit a plea to each charge indicated on the citation. The person may enter a plea of guilty, not guilty, or no contest. The plea must be submitted to the municipal court clerk by mail, in person, or by other method acceptable to the municipal court.
- (B) A person may enter a plea of guilty or no contest to a charge on a citation issued under this chapter by paying to the municipal court the fine for and any court costs associated with the charge.

§ 15-6-126 COMPLIANCE REQUIRED.

- (A) A person commits an offense if the person performs an act prohibited by this chapter or fails to perform an act required by this chapter. Each instance of a violation of this chapter is a separate offense.
- (B) A person commits an offense if the person has been issued a citation under this chapter and the person fails to enter a plea to a charge indicated on the citation on or before the appearance date indicated on the citation.
- (C) A person commits an offense if the person intentionally harasses, threatens, interferes with, or gives a false or fictitious name, residence address, license, license number, vehicle registration, or date of birth to an enforcement

officer at the time the enforcement officer is issuing the person a citation under this chapter.

§ 15-6-127 CULPABLE MENTAL STATE.

- (A) Except as otherwise specifically required in this chapter, proof of a culpable mental state is not required for a conviction of an offense under this chapter for a fine under \$500.00.
- (B) Proof of a culpable mental state is required for a conviction of an offense under this chapter for a fine of \$501.00 to \$2000.00.

§ 15-6-128 PENALTIES FOR VIOLATIONS.

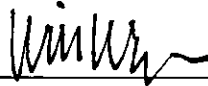

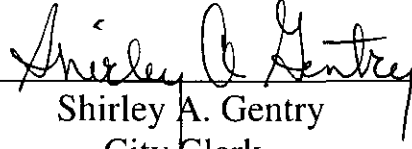
- (A) A person who violates a provision of this chapter, or who fails to perform a duty required of the person under this chapter, commits an offense. A person is guilty of a separate offense for each day or part of a day during which a violation is committed, continued, or permitted.
- (B) An offense under this chapter is punishable by a fine of not more than \$2,000 and, upon a first conviction, not less than \$100.
- (C) The minimum fine established in Subsection (B) shall be doubled for the second conviction of the same offense within any 24- month period and trebled for the third and subsequent convictions of the same offense within any 24- month period. At no time shall the minimum fine exceed the maximum fine established in Subsection (B).
- (D) In addition to being subject to criminal enforcement and penalties as provided in Subsections (A), (B), and (C) of this section, a licensee that violates or causes or permits the violation of any of the provisions of this chapter commits a civil offense and is civilly liable to the city for an amount not to exceed \$2,000 for each violation. A licensee is liable for a separate violation for each day or part of a day during which a violation is committed, continued, or permitted.
- (E) In addition to being subject to civil and criminal enforcement and penalties for violations of this chapter, in any instance where a person and/or licensee's violation of this chapter creates or exacerbates an adverse public health or safety condition related to wet or dry solid waste material accumulation, release, or dispersal, the city may immediately abate the conditions in question without notice and charge the person and/or licensee for any and all costs and/or fees incurred by the city or any entity acting on its behalf for the abatement, cleaning, removal, and/or remediation of any

location adversely affected by the violation of this chapter by the person and/or licensee.

- (F) The remedies provided in this chapter are cumulative and in addition to any and all other remedies available at law or in equity under applicable federal, state, and local law.

PART 10. This ordinance takes effect on March 23, 2009.

PASSED AND APPROVED

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<u>March 12</u> , 2009	§	<u></u>
		Will Wynn Mayor
APPROVED: <u></u>	ATTEST:	<u></u>
David Allan Smith City Attorney		Shirley A. Gentry City Clerk