

ORDINANCE NO. 2012-4

AN ORDINANCE OF THE CITY OF CUMBY, TEXAS, AMENDING ORDINANCE 2007-8 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; APPROPRIATE CONTAINERS REQUIRED; TIME AND PLACEMENT FOR COLLECTION; RESIDENTIAL COLLECTION CHARGES; COMMERCIAL COLLECTION CHARGES; USE OF CONTAINERS; DAMAGES AND REPLACEMENT FEES; 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. – APPROPRIATE CONTAINERS REQUIRED.

- A) All residents and commercial establishments that are not provided with commercial container service shall use only approved containers for disposal of solid waste.
- B) Wheeled containers provided by the franchise solid waste hauler are hereby declared to be the only approved containers for disposal of solid waste.
- C) Unless otherwise exempt by the terms of this Ordinance, it shall be unlawful for any person to dispose of garbage, trash, and other solid waste except in the approved containers. Solid waste placed outside of approved containers shall not be collected.

SECTION II. – TIME AND PLACEMENT FOR COLLECTION.

- A) All residents and commercial establishments that do not use a commercial container service shall place their solid waste at prescribed locations not later than seven (7:00) a.m. on the day of scheduled collection.
- B) No wheeled containers shall be allowed to remain at the collection point prior to six (6:00) p.m. on the day before collection and after six (6:00) a.m. on the day after collection.
- C) All garbage and trash shall be placed inside the wheeled containers. Nothing may be placed on top of the wheeled container lid. The lid must be closed to prevent littering and to render contents inaccessible to insects, rodents and other animals.

- D) Commercial establishments that do not use commercial container service shall place their approved containers at the appropriate collection point on the scheduled collection day.
- E) After receiving notification that an item placed for collection cannot be handled by the collection crews, residents and commercial establishments shall remove and dispose of such items at their own expense.

SECTION III. – RESIDENTIAL COLLECTION CHARGES.

- A) The city shall charge and collect from each residential unit within the corporate city limits the sum of twelve (\$12.00) dollars per month for solid waste.
- B) The city shall charge and collect from each residential unit outside the corporate city limits the sum of fourteen dollars and fifty cents (\$14.50) per month for solid waste.
- C) One (1) 96 gallon wheeled container will be provided by the franchise solid waste hauler to each residence at no charge. If an additional container is requested, the city will charge an additional three (\$3.00) dollars per month on the customer's garbage bill.

SECTION VI. – COMMERCIAL COLLECTION CHARGES.

- A) The city shall charge and collect from each subscribed commercial unit the sum of thirty (\$30.00) dollars per month for solid waste.
- B) Two (2) 96 gallon wheeled container will be provided by the franchise solid waste hauler to each residence at no charge. If an additional container is requested, the city will charge an additional five (\$5.00) dollars per month on the customer's garbage bill.

SECTION V. – USE OF CONTAINERS.

- A) It shall be unlawful for any person, other than the owner or lessee of a wheeled container or persons authorized by the owner or lessee, to deposit, or allow to be deposited, any type of waste or other substance in a container where such container is posted with a notice prohibiting such deposit. In any prosecution for a violation of this subsection, proof that materials deposited in a waste container in violation of this subsection were transported to the waste container in a motor vehicle, together with proof that the defendant named in the complaint was at the time of such transportation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of the vehicle was the person who made the deposit in violation of this subsection.

- B) Commercial customers shall ensure that no liquid waste of any type is placed in their containers and that no solid waste is placed outside the containers.
- C) Every person who is issued a wheeled container and uses the same in connection with a business or commercial purpose shall maintain supervision over any such wheeled container and shall ensure that the lids and doors of the wheeled container are kept closed except when the wheeled container is being emptied, filled, cleaned or repaired.
- D) Every person who is issued a wheeled container used for the deposit of waste shall empty the container or cause the container to be emptied at least once every seven consecutive days. All garbage shall be placed in bags before deposit into a wheeled container; the number of bags not to exceed six (6) at each time. It shall be unlawful for the resident / commercial customer issued the wheeled container to allow the container to overflow with waste. The resident / commercial customer issued the wheeled container shall provide for cleaning of the interior of the wheeled container when necessary to keep the interior surface of the wheeled container free and clear of accumulated garbage.
- E) Customers may not relocate or alter the appearance of containers without the written approval of the Mayor or appointed representative.

SECTION VI. – DAMAGES AND REPLACEMENT FEES.

- A) The city shall not be responsible for damage to paving on private property where the franchise solid waste hauler trucks are required to go upon such private property in the normal operation of servicing garbage containers.
- B) The city shall charge a replacement fee of seventy-five (\$75.00) dollars to the property/commercial owners for the replacement of wheeled containers.

SECTION VII. – 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 full compliance with its provisions.

SECTION VIII. – 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 IX. – PENALTY.

A) Duty to Correct. - It shall be the duty of all persons, firm's, corporations, partnership's, association of persons, owners, agents, or occupants, 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.

B) Notice to correct or remove condition. – In the event that all persons, firm's, or corporations 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, 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.

C) 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 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.

D) 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 twenty-five dollars (\$25.00); and each offense and each day's continuance of failure to comply with these provisions shall constitute a separate and distinct offence. This section shall be in addition to the provision for abatement of said condition and charging the cost of the 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.

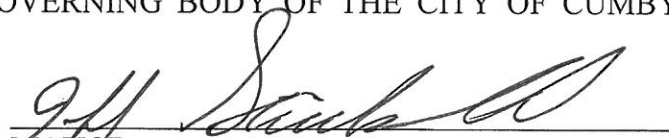
SECTION X. REPEALING CLAUSE.

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

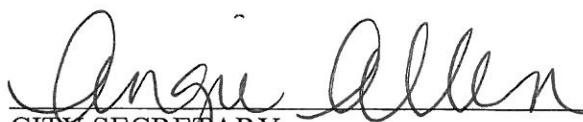
SECTION XI. – DECLARING AN EMERGENCY.

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 ordinance more than one time on more than one occasion are hereby suspended.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF CUMBY, TEXAS, THIS 3rd DAY OF JULY, 2012.


MAYOR

ATTEST:


CITY SECRETARY

