

ORDINANCE NO. 1270

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STAFFORD, TEXAS, AMENDING CHAPTER 74 "SOLID WASTE" OF THE CODE OF ORDINANCES TO EXTEND THE REQUIREMENT TO USE THE CITY'S CONTRACTED SOLID WASTE COLLECTOR TO COMMERCIAL AND INDUSTRIAL PROPERTIES; PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

* * * *

WHEREAS, the City Council of the City of Stafford, Texas (the "City") has deemed it in the best interest of the City and its citizens to require the collection of commercial and industrial solid waste in addition to residential solid waste through the properly procured contract with a Municipal Solid Waste Collector; and

WHEREAS, on or about January 17, 2024, the City Council formally ratified the execution of an Agreement with Waste Corporation of Texas, L.P. d/b/a GFL Environment ("GFL") for residential, commercial, and industrial solid waste collection services; and

WHEREAS, the City Council, based on citizen input, communications with commercial and industrial property owners, and prescribed timelines of similarly situated governmental entities, has determined that a reasonable and appropriate effective date of compliance with this Ordinance by commercial properties is April 7, 2024.

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

SECTION 1. Chapter 74 "Solid Waste" of the Code of Ordinances of the City of Stafford, Texas, is hereby amended to read as shown in the attached "Exhibit A" with deletions being struck and additions being shown in **bold and underlined**.

SECTION 2. This Ordinance shall become effective on April 7, 2024.

SECTION 3. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

SECTION 4. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of

Stafford, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this the 7th day of February, 2024.

Ken Mathew

Ken Mathew, Mayor

ATTEST:

Roxanne Benitez
Roxanne Benitez, City Secretary

EXHIBIT A

Chapter 74 SOLID WASTE

Sec. 74-1. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bags shall mean plastic sacks designed to store municipal solid waste refuse with sufficient wall strength to maintain physical integrity when lifted by top, not exceeding 40-gallon size, and not containing more than 40 pounds of municipal solid waste refuse.

Bulky waste shall mean stoves, refrigerators, air conditioners, freezers, water tanks, washing machines, furniture, and other waste materials other than construction debris, dead animals, hazardous waste or stable matter with weights or volumes greater than those allowed for containers. Any item with refrigerant must have certification of Freon reclamation; refrigerators or freezers put out for collection must have the doors removed prior to being placed at the curb.

Bundle shall mean tree, shrub and bush trimmings, and other yard wastes, or newspapers, magazines, or other loose-leaf paper products, securely tied together forming an easily handled package not exceeding four feet in length and 40 pounds in weight.

Commercial unit shall mean a property or structure within a Nonresidential District or a Mixed-Use District, as defined in the Zoning Ordinance as amended from time to time, that does not fall under the definition of "Residential Unit" or "Industrial Unit."

Commercial waste shall mean waste produced by a commercial unit including municipal solid waste and construction debris but not including excluded waste and hazardous waste.

Construction debris shall mean waste building materials resulting from construction, remodeling, repair or demolition operations.

Dead animals shall mean animals or portions thereof equal to or greater than 10 pounds in weight that have expired from any cause, except those slaughtered or killed for human use or consumption.

Excluded waste shall mean construction demolition waste, wastewater treatment plant sludge, and any materials or substances that may not lawfully be disposed of at a type I or type IV landfill permitted by the state natural resource conservation commission, including, but not limited to, petroleum and petroleum products, natural gas and natural gas products, asbestos, lead and polychlorinated biphenyls, and any radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, bio-hazardous, toxic or hazardous waste substance or material, as defined by applicable federal, state, or local laws or regulations.

Garbage shall mean any and all dead animals or portions thereof less than ten pounds in weight, except those slaughtered for human use or consumption, every accumulation of waste (animal, vegetable, and/or other matter) that results from the handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable animal or vegetable waste matter that is likely to attract flies or rodents); except (in all cases) any matter included in the definition of bulky waste, construction debris, dead animals, hazardous waste, rubbish or stable matter.

Hazardous waste shall mean waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate State agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law. For purposes of this chapter, the term hazardous waste shall also include Freon, motor oil, gasoline, paint and paint cans.

Industrial unit shall mean a property or structure on or in which activity including manufacturing, mining, agricultural operations, refining, or the like takes place.

Industrial waste shall mean waste produced by an industrial unit including municipal solid waste and construction debris but not including excluded waste and hazardous waste.

Municipal solid waste shall mean all garbage and rubbish generated within the corporate limits of the city, including recycling from residential units only, but shall not, in any event, include any excluded or hazardous waste.

Municipal solid waste collector shall mean a person which the city has contracted with, pursuant to section 74-2, for the collection of residential municipal solid waste, industrial waste, and commercial waste generated within the city.

Person shall mean one or more natural persons, a corporation, firm, partnership, association, joint stock company, society, utility district, organization, or other entity.

Producer shall mean a person who is in control of a premises or a location generating municipal solid waste within the city, including but not limited to, an owner, operator, occupant, tenant, lessee or resident of such premises or location. an occupant of a residential unit who generates refuse and residential refuse.

Recycle or recycling shall mean the collection, separation, recovery, and sale or reuse of metals, paper, plastics and other materials which would otherwise be disposed or processed as municipal solid waste.

Refuse shall mean garbage, rubbish, bulky waste, construction debris and stable matter generated by a producer at a residential unit.

Residential refuse shall mean all garbage and rubbish generated by an occupant of a residential unit.

Residential containers shall mean the solid waste container and the recycling container provided to residential units which shall be placed by residential producers at curbside for collection.

Residential unit shall mean a dwelling unit or other structure with complete independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Rubbish shall mean all bulky waste, waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, waste paper and other products such as those used for packaging or wrapping, crockery and glass, ashes, floor sweepings, and mineral or metallic substances.

Stable matter shall mean 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.

Vectors shall mean any animal or insect capable of carrying a disease-causing microorganism from one host to another, including flies, mosquitoes and rodents.

Sec. 74-2. Contract required.

- (a) It shall be unlawful for any person to engage in the business of collecting any municipal solid waste, industrial waste, or commercial waste residential refuse generated within the corporate limits of the city unless such collection is done pursuant to a contract between said person and the city.
- (b) Each producer in the city shall use the municipal solid waste collector for municipal solid waste, industrial waste, and commercial waste. It shall not be a defense to prosecution that such producer transports or causes to be transported municipal solid waste, industrial waste, or commercial waste to another location. It shall be unlawful for any owner or occupant of property within the city to fail to remove, or cause to be removed, and lawfully dispose of all solid waste generated or accumulated on the property, other than municipal solid waste collected and disposed of by a municipal solid waste collector.

(c) It is an affirmative defense to prosecution under this section that the city council has permitted the person or municipal another solid waste collector to collect municipal solid waste, industrial waste, or commercial waste residential refuse from a specific the property.

(d) Each producer in the city shall dispose of excluded waste and hazardous waste in a lawful manner.

Sec. 74-3. Terms and conditions of contract.

The terms and conditions of all contracts entered into between the city and any person for the collection of municipal solid waste, industrial waste, and commercial waste residential refuse generated within the corporate limits of the city shall be as determined and agreed to by the city council and such person.

Sec. 74-4. Standards for stockpiling pending collection.

It shall be unlawful for any person stockpiling refuse or recycling to fail to comply with the following standards:

- (a) Residential containers used to store residential for municipal solid waste shall not exceed 40 gallons in size or ten pounds in weight (50 pounds when filled with municipal solid waste refuse) and shall be equipped with an appropriately sized lid, which shall be securely attached and closed when containing municipal solid waste refuse;
- (b) Receptacles used by commercial or industrial establishments to store refuse shall be equipped with an appropriately sized lid, which shall be securely attached when containing such waste;
- (c) The total weight of bagged residential municipal solid waste refuse shall not exceed 40 pounds, nor shall bags be used which lack sufficient wall strength to maintain the physical integrity of the bag when lifted by the top when full;
- (d) All residential municipal solid waste refuse stockpiled for collection shall be placed in a closed container, bag, or bundle;
- (e) No person shall place for collection and transport for disposal by a municipal solid waste collector any waste deemed excluded waste or hazardous waste; Residential producers shall not place construction debris for collection and transport for disposal by a municipal solid waste collector except as designated in this section.
- (f) Residential containers, bags, or bundles shall be placed at curbside for collection no earlier than 24 hours prior to the date of the collection and no later than 7 a.m. on collection day. Residential containers shall be removed from the curbside no later than 24 hours after the date of the collection. Curbside refers to that portion of the right-of-way adjacent to the paved or traveled city roadways, including alleys. Residential containers, bags, or bundles shall be placed within two feet of the roadway or as near as practicable to the roadway without interfering with or endangering the movement of vehicles or pedestrians. If construction work is being performed in the right-of-way, then containers, bags, or bundles shall be placed as close as practicable to an access point for the collection vehicle. garbage shall not be placed at the curb no more than 24 hours prior to the date of the collection;
- (x) Containers used by commercial or industrial units to store municipal solid waste, commercial waste, and industrial waste shall be equipped with an appropriately sized lid, which shall be securely attached and closed when containing such waste;
- (g) The city has a tree limb collection established on the first Monday of the first week of January February, April, Julyne, and August, October and December. The city will collect or chip and haul off limbs cut from residential properties cut by the property owner or their landscape service contractors and placed at the curb for collection. Commercial tree service contractors who trim trees shall haul off

any limbs cut by their companies. Any limbs cut to be collected by the city on these collection days shall not be placed at the curb no more than four days prior to the first day the collection is scheduled to start; and

(h) ReceptaclesContainers used at commercial or industrial units~~establis~~ishments shall not be placed nearer than five feet from buildings, unless an exception therefor has been granted by the fire marshal due to fire safety considerations and standards.

Sec. 74-5. Payment required.

Subject to the availability of funds therefore, it is the policy of the city of Stafford to provide for the collection of all municipal solid waste, industrial waste, and commercial waste ~~household refuse~~ in accordance with the rules and regulations established in this chapter. The city has made provision for uniform and orderly collection and removal of all ~~residential~~ municipal solid waste, industrial waste, and commercial waste generated within the corporate limits of the city. ~~Each occupied residence within~~ The city shall be billed for such services at the rates established from time to time by ordinance or resolution of the city council and such bills shall be due and payable upon receipt even if service was refused by the producer owner or occupant of the residence.

(a) For all costs and services of the city related to the availability of collection and the collection of residential municipal solid waste ~~residential refuse~~ by the city, there is hereby imposed a monthly charge for each single family dwelling unit and for each dwelling unit within a multiple-family dwelling unit from which municipal solid waste ~~refuse~~ is collected by the city. The amount of the monthly charge shall be established by the city by resolution. ~~No charge shall be imposed on any multiple-family dwelling where the city does not collect refuse.~~

(b) The collection charge imposed by this section shall be a joint and several charge against the occupants and the owner of each residential unit subject to the charge.

(x) For all costs and services of the city related to the availability of collection and the collection of commercial municipal solid waste by the city, there is hereby imposed a monthly charge for each property(?) from which municipal solid waste is collected by the city. The amount of the monthly charge shall be established by the city by resolution.

(c) It shall be unlawful to refuse or fail to pay the charges for residential municipal solid waste, industrial waste, and commercial waste collection services provided by the city or its contractor.

Sec. 74-6. Billing, collection and payment of charges.

(a) The collection of the charges imposed under this article shall be under the direction, supervision and control of the director of public works, or the director's designee (the "director").

(b) The charges imposed shall be billed and paid by the customer in whose name the water meter serving each residential, industrial, or commercial dwelling unit is listed upon the records of the Fort Bend County Water Control and Improvement District Number Two ("WCID#2"), or as determined by the director. The charges may be added to a bill prepared by WCID#2 or such other person or entity approved by the director.

(c) If a customer billed is delinquent and fails to pay the director within 15 days from the date of service, then the director and city attorney are authorized to collect delinquent accounts for the city.

(d) The director shall have the authority to correct billing errors, and to refund any amounts overpaid, provided, however any request for refuse must be within six months of the payment by the customer for which the refund is sought and must be submitted in writing to the director.

Sec. 74-7. Garbage services; liens.

(a) After the city has terminated a customer's garbage services pursuant to the requirements of this chapter, or after the city terminates garbage service at a customer's request, or after a customer

becomes more than four-months delinquent for garbage service, then the director shall file a lien on the property which the terminated garbage service was provided and in the amount that the customer whose services was terminated owed to the city for garbage service at the time of the termination of service.

- (b) If a property or property owner receives garbage service without an account with the city or WCID#2, then the director shall bill the property or property owner the amount of the minimum monthly garbage collection charge that would have been charged to that property or property owner if the property or property owner had an account, multiplied by the number of months during which that property or property owner received such garbage collection services without an account.
- (c) Any lien authorized by this chapter shall be filed with the appropriate county clerk in which the property to which the lien will be attached is located. The city shall then have a privileged lien on as many lots or pieces of property as the terminated services previously served and are described on the lien instrument by metes and bounds, or by city lot and block description, or by any other adequate description. The lien shall secure the charges made by the city for these above discussed services rendered to that property. The director shall add to any lien filed pursuant to this chapter the amount of the filing fee charged by the county clerk for filing that lien. The lien shall be effective against that property, if the account holder or user of services of that property were either the owner of that property, a tenant of that property or a permissive holder of that property, or an adverse possessor of that property. It is further provided that for any charges for which the lien authorized by this chapter is designed to secure, suit may be instituted and recovery in the foreclosure of that lien may be had in the name of the city. The director or city attorney is authorized to file such liens.
- (d) No lien shall be filed if a customer owes less than \$100.00, or against any property that the city knows to be a homestead as defined by the Texas Constitution.
- (e) After the filing of a lien pursuant to this chapter, the director shall within 30 days of the filing of that lien give the owner of the property and the account holder notice that such a lien or liens have been filed on that property and inform the owner and account holder of their rights of appeal. Within thirty (30) days of the post mark of the notice sent to the property owner or account holder, the property owner or account holder may appeal the decision to impose the lien on that property to the Municipal Court of the city. The judge shall authorize the release of the lien if the property owner or account holder shows that no bill for the above mentioned services to his property encumbered by the lien or liens is owing, or if the property owner shows that the encumbered property is and at all times from the hour of the filing of the lien or liens until the time of the appeal has been a homestead as defined by the Texas Constitution. The judge may modify or release the lien to reflect the true amount of delinquency in payment for services to the property if the owner or account holder demonstrates that a lesser bill is owing than the lien alleged or if the director cannot show that the entire lien alleged is owing. The person last listed on the County Appraisal District's tax records as being the owner of any given piece of property shall be presumed to be the owner for purposes of this subsection, and the address listed for the owner on the County Appraisal District's tax records shall be presumed to be the address of the owner.
- (f) Whenever a person or entity pays all principal, interest, and the filing fee of a lien validly filed pursuant to this section, the director shall execute a release of that lien and surrender it to the paying party. The city shall not be responsible for filing that release.
- (g) Declaration of rental property or services. If the owner of any property rents that property to another person (a "Tenant") and the Tenant carries city garbage in the Tenant's name, then the owner may prevent the city from using that property as security for garbage service charges for service to that property and from filing any lien on such property under the provisions of this chapter by filing with the city a declaration in writing specifically naming the service address of that property and declaring such to be rental property that the owner does not wish to be security for the garbage collection charges for service to that property, and providing the name and mailing address of the Tenant.
- (h) After the city has terminated a customer's garbage service pursuant to the requirements of this chapter, or after the city terminates garbage service at a customer's request, then the director may report to credit service(s) relevant payment information on all persons or entities listed above when

the payment for the garbage service remains delinquent for more than 90 days. The director shall have the authority to report the payment history to other utility service providers. The director shall have the authority to authorize and direct the city attorney to file suit to collect amounts owed the city for garbage collection services and charges that remain delinquent for 90 days or more.

Sec. 74-8. Garbage services required; revocation of certificate of occupancy.

- (a) All residential, commercial, and industrial units in the city shall utilize municipal solid waste collector or an approved garbage collector approved by city council.
- (b) No certificate of occupancy (CO) shall be permitted, and any permitted CO shall be revoked, if a residential, industrial, or commercial unit does not have garbage service provided in accordance with this chapter.

Sec. 74-9. Property a nuisance. Special Collection

~~It is hereby declared a nuisance for any residence to be occupied without having contracted for and receiving solid waste collection and disposal services.~~

- (a) Residential producers seeking permanent and/or temporary roll-off containers for special collections of bulky waste or construction debris that is not eligible to be placed in residential containers shall establish an account for roll-off services with the authorized municipal waste collector.
- (b) All billing for roll-off containers will be processed by the municipal waste collector with payments to be made by the payment date reflected in the invoice.

Sec. 74-10. Other offenses.

A person commits an offense if the person intentionally, knowingly, recklessly, or with criminal negligence:

- (a) Fails to pay a fee for garbage collection services imposed by this chapter;
- (b) Disposes of garbage using another person's container in the city without that person's consent;
- (c) Places excluded waste or hazardous waste ~~a dead animal or any other prohibited item~~ in any garbage container for collection by the city;
- (d) Burns trash in an open bin or container in the city; or
- (e) Deposits any refuse upon or in any street or premises in the city.