

City of Houston, Texas, Ordinance No. 2007- 575

AN ORDINANCE AMENDING CHAPTER 39 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO SOLID WASTE COLLECTION IN THE CITY; REPEALING ORDINANCE NO. 85-842 RELATING TO SOLID WASTE SPONSORSHIP AGREEMENTS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, in 2006, the Mayor's Solid Waste Task Force ("Task Force") was appointed by Mayor Bill White to study various issues relating to the City's Solid Waste Management Department and its services; and

WHEREAS, on April 2, 2007, in a special meeting of the City Council, the Task Force presented its final report and recommendations for changes to the City's solid waste operations; and

WHEREAS, the Task Force recommended certain revisions to Chapter 39 of the Code of Ordinances, Houston, Texas, to address issues such as eligibility for basic garbage collection service provided by the City, sponsorship agreements in lieu of garbage collection by the City and other operational matters; and

WHEREAS, the City Council agrees with the Task Force recommendations as they relate to the suggested revisions to Chapter 39 and now wishes to effect such revisions to the City Code; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2. That Section 39-1 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 39-1. 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:

Alley means a public right-of-way that is used only for secondary access to individual properties that have their primary access from an adjacent public street or an approved common or compensating open space or courtyard that has direct access to a public street.

Automated service container means a rolling, molded plastic container, equipped with a lid, capable of holding not more than 90 gallons, and designed and intended to be collected by means of a garbage collection vehicle designed to be operated by a single individual.

Basic collection service means the collection of residential garbage or trash by the city effected by the use of a garbage truck manufactured or configured to permit the driver to collect the garbage and rubbish from automated service containers placed at the edge of the public street curblin or edge of paving by means of a mechanical device operated by the driver without the necessity of leaving the cab of the truck. The term also includes the collection of garbage or trash in one-way containers pursuant to section 39-62(c)(3) of this Code.

Bulk container means any container used for the collection and/or disposal of solid waste that is designated and intended:

- a. To be transported from the premises where it is used by mechanical means with its contents to the dumpsite; or
- b. To be emptied by mechanical means upon the premises where it is used into a waste transport vehicle.

Without limitation, the term includes the 'dumpster' type containers that are commonly used in multifamily residential, commercial, industrial and public locations. Provided, that the term shall not include the rolling automated service containers that are furnished by the city and private collection contractors to residents where basic collection service equipment is utilized.

Bulk container service provider means the owner of the bulk container, provided that if a person other than the owner is contractually or otherwise obligated to transport the bulk container and/or its contents for disposition, then it shall mean the person providing such service.

Central business district means the area beginning at the intersection of the centerline of U.S. 59 and the centerline of I.H. 45; thence in a northeasterly and northerly direction along the centerline of I.H. 45 to its intersection with the centerline of I.H. 10; thence in an easterly direction along the centerline of I.H. 10 to its intersection with the centerline of U.S. 59; thence in a southwesterly direction along the centerline of U.S. 59 to its intersection with I.H. 45, the point of beginning.

*Curblin*e means an imaginary line drawn along the edge of the pavement on either side of a public street; the curblin

e shall include the area three feet beyond said imaginary line on the residence side of the line.

Department means the department of solid waste management.

Director means the director of the department of solid waste management or the director's duly authorized representative.

Garbage means abandoned, discarded or unwanted putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food, including such materials from food markets, food storage facilities, food handling, and the sale of produce and other food products.

Heavy or oversize trash means any rubbish or trash generated upon the premises of a residential unit and of such size or weight that it cannot be containerized pursuant to section 39-62 of this Code and is not subject to collection pursuant to section 39-64 of this Code including, but not limited to, major appliances and tree limbs having a diameter of three inches or more.

Houston Downtown Management District means the district created by Subchapter A of Chapter 376 of the Texas Local Government Code.

Litter means uncontrolled and improperly containerized garbage or trash on public or private property.

One-way container means a disposable bag made of plastic film or of any other synthetic or natural organic material that has

sufficient strength and quality to securely contain a capacity of not more than 35 gallons.

Public street means the entire width between property lines of any road, street, way, alley, bridge, or other similar thoroughfare, not privately owned or controlled, when any part thereof is open to the public for vehicular traffic, which is the responsibility of the city or other similar public agency to maintain, and over which the city has legislative jurisdiction under its police power.

Recyclable material means material that has been recovered or diverted from the nonhazardous waste stream for purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recyclable material is not solid waste; however, recyclable material may become rubbish at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be rubbish with respect only to the party actually abandoning or disposing of the material.

Residential unit means any occupied structure within the city limits of the city devoted to single-family residential use. Residential unit shall include, but not be limited to, houses, duplexes, condominiums, townhouses, townhomes, trailer homes, manufactured homes and patio homes. The term shall also include each apartment in an apartment project or community containing eight or fewer individual units. Residential unit shall not include apartment projects or communities containing more than eight individual units, hotels, motels, boarding houses, or other similar rental units.

Rubbish or trash means abandoned, discarded or unwanted nonputrescible solid waste materials consisting of both combustible and noncombustible waste materials; combustible rubbish or trash shall include feathers, paper, rags, cartons, boxes (flattened and tied), wood, excelsior, nonmetallic furniture, rubber, plastics, yard trimmings, shrubs, leaves, and similar materials; noncombustible rubbish or trash shall include glass, crockery, tin cans, aluminum cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit); provided that, rubbish or trash shall not include bulk quantities of building materials or major automotive components, and the city shall not be required to pick up such materials.

Sponsorship agreement means a reimbursement agreement between the city and a civic or homeowner's association or other qualified entity for the purpose of partially offsetting the cost incurred by the association or qualifying entity in assuming the responsibility for all garbage collection services to residential units eligible for such services pursuant to chapter 39 of this Code in certain defined areas of the city.

Solid waste means 'municipal solid waste' as that term is defined in the Texas Solid Waste Disposal Act; waste resulting from the construction or demolition of any structure; and any other type of solid waste as defined in Section 330.2 of the Texas Administrative Code and any amendments thereto.

Trash. See *rubbish* or *trash*.

Yard waste means grass, shrub, or other plant clippings, leaves, and tree limbs meeting the requirements of section 39-64 of this Code."

Section 3. That Sections 39-65 through 39-67 of the Code of Ordinances, Houston, Texas, are hereby redesignated as Sections 39-67 through 39-69 thereof, and new Sections 39-65 and 39-66 are added to read as follows:

"Sec. 39-65. Eligibility for basic collection service.

The following residential units shall be eligible for basic collection service:

- (1) Except as provided in item (2) of this section, units abutting a public street; and
- (2) Units within a development or subdivision containing private streets, permanent access easements or shared driveways, if at least one residential unit located within such development or subdivision is adjacent to at least one public street and the development or subdivision contains no more than 25 units and provided further:
 - a. Each automated service container or one-way container is placed at the curblineline or edge of paving on the public

street adjacent to the development or subdivision or, if the development or subdivision is adjacent to more than one public street, on the street specified by the director;

- b. The adjacent public street contains sufficient non-driveway frontage to permit the placement of automated service containers for all residential units within the development or subdivision when spaced on five foot centers; and
- c. All units in the development or subdivision fully comply with each requirement of this item.

Any failure to comply with all conditions set forth in this item shall entitle the director to suspend basic collection service to the development or subdivision.

Sec. 39-66. Sponsorship agreements.

(a) The city shall enter into a sponsorship agreement, as defined in section 39-1 of this Code, only with a civic or homeowners association or other qualified entity that assumes responsibility for all garbage collection services available to those residential units eligible for such service pursuant to section 39-65 or any other provision of chapter 39 of this Code that are located within the geographical area to be served, provided the association or qualified entity is authorized to bind all residential units within the geographical area covered by the sponsorship agreement. Only those sponsorship agreements that are consistent with the provisions of this section and are in a form approved by the city attorney shall be approved.

(b) Sponsorship agreements shall be approved by the director, provided that any agreement that requires payment by the city in any one year of an aggregate amount in excess of the city council approval requirement limitation amount established pursuant to article II, section 19a of the City Charter shall be approved by the city council.

(c) A sponsorship agreement shall be administered on an all or none basis and shall apply to all units in the development or community. A residential development or community that is not eligible for basic collection service pursuant to section 39-65 of this Code shall not be eligible for a sponsorship agreement.

(d) No reimbursement payments shall be authorized by the director or the city council except pursuant to the terms of a properly executed sponsorship agreement. Reimbursements shall be made on a monthly basis. The amount of reimbursement for each residential unit included in a sponsorship agreement may be established annually as of July 1 of each year by the city council. If the city council does not, for any reason, establish an amount by July 1 of any year, the amount of reimbursement for the following fiscal year shall be that amount which was in effect during the prior fiscal year, and such amount shall remain in effect through June 30 of the following year.

(e) All sponsorship agreements shall terminate on June 30 of each and every year and shall expire unless the director receives from the association or qualified entity, at least sixty days prior to the termination date, written notice that the association or qualified entity wishes to extend the agreement for an additional year. If any sponsorship agreement is allowed to terminate and the association or qualified entity wishes to resume the agreement, a new agreement must be executed."

Section 4. That newly redesignated Section 39-67 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 39-67. Placement for basic collection service.

(a) Except as otherwise specifically permitted in subsection (b), (c) or (f) of this section or section 39-65(2) of this Code, basic collection service shall be limited to automated service containers or one-way containers placed at the curblineline of a public street in front of the property upon which the garbage or trash was generated.

(b) The director shall determine the street on which containers shall be placed for collection from a residential unit located on a corner lot.

(c) If vehicle parking is permitted on both sides of a narrow, one-way or dead-end public street on which residential units abut, the director may require that, on collection day:

- (1) The parking of vehicles be restricted to one side of the street;
- (2) Containers be placed for collection on only one side of the street; or

- (3) The requirements of items (1) and (2) of this subsection both be met.

(d) All items shall be contained or bundled as provided in this chapter. Basic collection service shall be provided on the basis of a schedule established and promulgated by the director, which shall normally include one pickup per week. Basic collection service shall also be limited to materials authorized under rules established by the director, as provided in section 39-50 of this Code.

(e) It shall be unlawful to place or to allow to remain any materials at the curblineline for basic collection service by the department prior to 6:00 p.m. of the day preceding a day designated by the director for basic collection service at that location. Basic collection service shall commence at 7:00 a.m. on the day designated by the director. It shall be unlawful to place or allow to remain any materials at the curblineline on a designated collection day after department collection service personnel have passed the site for that day, and the department shall not have any obligation to return to collect items not present at the curb when the department vehicle serviced the site.

(f) The director may, in lieu of collection at the curblineline or edge of paving of a public street, authorize basic collection service from the curblineline or edge of paving of an alley if a majority of the residents having property abutting the alley prefer collection from the alley and if the alley meets each of the following criteria with respect to the portions of the alley that will be used by department equipment:

- (1) The alley must have a paved surface at least 16 feet in width;
- (2) The alley must have no overhang or projection lower than a height of 13 feet six inches above the pavement;
- (3) The alley must have a minimum turning radius of 35 feet at each place where the alley intersects a public street;
- (4) The alley must have no obstruction (parked vehicle, fixed object, or whatever) that would prevent, hinder or impede the free passage of department equipment for collection service; and
- (5) The director may require that all containers be placed on one side of the alley."

Section 5. That Subsection (b) of Section 39-77 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(b) Service shall be limited to materials authorized under rules established by the director as provided in section 39-50 of this Code, and no more than eight cubic yards of material shall be collected from any one residential unit on any scheduled collection day."

Section 6. That Section 39-77 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Subsection (g) that reads as follows:

"(g) No heavy or oversize trash collection service shall be provided to residential units eligible for collection pursuant to item 2 of section 39-65 of this Code."

Section 7. That City of Houston Ordinance No. 85-842, passed June 11, 1985, and subsequently amended by Ordinance No. 2005-1061, passed September 20, 2005, establishing certain policies and procedures for solid waste disposal related to the participation of the city in agreements related to garbage collection, is hereby repealed.

Section 8. All sponsorship agreements in effect on the date of passage of this Ordinance shall remain in effect until the expiration of the term set forth in such agreements. Thereafter, the execution of sponsorship agreements shall be governed solely by the sponsorship provisions of Chapter 39 of the Code of Ordinances, Houston, Texas, as adopted in Sections 2 through 6 of this Ordinance; provided that (i) residential units previously ineligible for garbage collection service by the City that become eligible for such service pursuant to the provisions adopted in Section 3 of this Ordinance shall be eligible to execute a sponsorship agreement in lieu of such service upon the effective date of this Ordinance; and (ii) the term of a sponsorship agreement for any residential unit

made ineligible for City garbage collection service may be extended by the director until the last day of December 2007.

Section 9. Twelve months from passage, the Solid Waste Management Department shall present a status report to the appropriate Council Committee on the effects of implementation of eligibility and service changes for solid waste collection, in order for committee to make possible recommendations to the administration.

Section 10. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 11. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at 12:01 a.m. on the sixtieth day next following the date of its passage and approval by the Mayor.

PASSED AND APPROVED this 16th day of May, 2007.



Mayor of the City of Houston

Prepared by Legal Dept. *Don Cheatham*
 RDC:asw 05/01/2007 Senior Assistant City Attorney
 Requested by Thomas M. "Buck" Buchanan, Director, Department of Solid Waste Management
 L.D. File No. 0420600101003

AYE	NO	
✓		MAYOR WHITE
••••	••••	COUNCIL MEMBERS
✓		LAWRENCE
✓		JOHNSON
✓		CLUTTERBUCK
✓		EDWARDS
	✓	WISEMAN
✓		KHAN
✓		HOLM
✓		GARCIA
✓		ALVARADO
✓		BROWN
✓		LOVELL
✓		GREEN
	ABSENT	BERRY
CAPTION	ADOPTED	

RESOLUTION PUBLISHED IN DAILY COURT
 REVIEW
 DATE: MAY 22 2007