

ORDINANCE NO. 32-2014

AN ORDINANCE OF THE CITY OF BIG SPRING, TEXAS REPEALING AND REPLACING CHAPTER ELEVEN OF THE BIG SPRING CODE OF ORDINANCES ENTITLED, "GARBAGE AND OTHER REFUSE" BY AMENDING EXISTING DEFINITIONS; PROVIDING ADDITIONAL DEFINITIONS FOR COMMERCIAL AND RESIDENTIAL ACCOUNTS; CLARIFYING EXISTING REGULATIONS REGARDING COLLECTIONS, DISPOSAL, AND USE OF THE CITY LANDFILL; REQUIRING TRANSPORTED WASTE TO BE SECURED; ESTABLISHING NEW FEES FOR COLLECTION SERVICES AND WASTE DISPOSAL; RENUMBERING FOR CLARIFICATION; PROVIDING FOR A MAXIMUM PENALTY OF \$1000.00; PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council finds it to be in the public interest to regulate the use, placement, maintenance and fees associated with the landfill located within the City of Big Spring; and

WHEREAS, the City Council finds that the public health, safety, and general welfare will best be served by the following regulations;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AS FOLLOWS:

SECTION 1. THAT the City of Big Spring Ordinance Chapter 11 entitled, "Garbage and Other Refuse", shall hereby be repealed and replaced with a new Chapter 11 to read in its entirety as follows:

GARBAGE AND OTHER REFUSE

CHAPTER 11

Article 1. In General

Sec. 11-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meaning herein ascribed to them:

- (A) "Garbage" shall include, among other similar matter, all animal or vegetable matter, such as waste materials and refuse from kitchens, residences, grocery stores, butcher shops, restaurants, cafes, hotels, and rooming and boarding houses.

- (B) “Municipal Solid Waste” or “M.S.W.” shall include solid waste resulting from or incidental to municipal, community, commercial, institutional and recreational activities.
- (C) “Hazardous Waste” shall mean any solid waste identified or listed as hazardous waste by the United States Environmental Protection Agency (USEPA).
- (D) “Industrial Solid Waste” shall include any solid waste resulting from and/or incidental to any process of industry, manufacturing, mining or agricultural operations, including:
 - (1) *CLASS I* – toxic, corrosive, flammable, strong sanitized or irritant that presents a danger to human life;
 - (2) *CLASS II* – waste that is not Class I or III; or
 - (3) *CLASS III* – inert or insoluble materials such as rock, brick, glass, dirt, or plastics.
- (E) “Special Waste” shall include:
 - (1) Small quantities of Hazardous Waste;
 - (2) Health Care Facility waste (i.e. medical waste);
 - (3) Municipal water and waste water sludge;
 - (4) Septic tank waste;
 - (5) Grease and grit trap waste;
 - (6) Slaughter house waste;
 - (7) Dead animals;
 - (8) Used acid batteries;
 - (9) Oil filters;
 - (10) ACM or PCB materials;
 - (11) White goods which contained Freon, unless certified free by a licensed service person; and
 - (12) Any other waste requiring special handling.

- (F) "Commercial Account" shall mean a municipal solid waste collection account for a business, such as hotels, restaurants, industrial/manufacturing operation, prisons, hospitals, nursing homes, apartment complexes, mobile home parks, recreational vehicle parks, etc.
- (G) "Debris" shall include dirt, concrete, rocks, bricks, construction material or other similar wastes.
- (H) "Trash" shall include any household trash and any refuse other than garbage, debris or brush, as herein defined.
- (I) "Brush/Trimmings" shall mean tree and shrub trimmings and grass clippings.
- (J) "Residential Account" shall mean an account for municipal solid waste collection for residential units, single family dwellings, and multiple family dwellings, etc.

Sec. 11-2. Proper Disposal/Transportation of Waste.

- (A) Each owner, occupant, tenant or lessee owning and/or occupying any residence, building, house or structure within the corporate limits of the city as a place of residence or as a place of business is hereby required to place all trash and/or garbage being disposed of from the premises in plastic trash bags or other appropriate disposable containers that are secured to prevent scattering of refuse. The bags or disposable containers shall be placed unbroken in the city furnished containers.
- (B) It is hereby declared to be unlawful for any person to place any garbage or trash on the ground, in an open box or container, to store the same in any receptacle other than containers meeting the requirements of this Chapter, or to place garbage or trash in city furnished containers not otherwise assigned for their individual use.
- (C) Commercial and Residential Account holders shall not share the same container.
- (D) It is hereby declared unlawful for any person to place Brush/Trimmings, rocks, dirt, construction material or any other material listed in Section 11-4 in any city furnished container.
- (E) It shall be unlawful for any person or persons, firm or corporation, to fail to properly secure loose garbage, trash or other waste for transporting by way of tarpaulin, net, or other means to effectively prevent the blowing or spilling of waste onto streets, highways, or thoroughfares within the city.

Sec. 11-3. Unauthorized Usage of City Furnished Containers.

It is hereby unlawful for any person or persons, firm or corporation, to place or remove, or cause to be placed or removed, garbage or refuse in a container not specifically assigned to that person, firm or corporation.

Sec. 11-4. Waste Not Collected by City Sanitation Department.

The following material shall not be collected by the City Sanitation Department and therefore shall not be placed in city furnished containers:

- (A) Manure from private stables;
- (B) Offal and refuse from animals and fowl;
- (C) Night soil;
- (D) Dead animals and fowl;
- (E) Building/construction materials;
- (F) Furniture;
- (G) Brush/trimmings; and
- (H) All other waste not mentioned in Section 11-1, hereinafter called "Refuse."

The above described waste shall be kept in a suitable receptacle separate from the containers furnished by the city and shall not be dumped in the alleys or retained on the premises so as to become a nuisance, and the same shall be properly disposed of by the owner thereof.

Sec. 11-5. Collection by City Generally; Exception.

- (A) All residential, business and commercial establishments within the corporate limits of the city shall be required to subscribe to the City's M.S.W. collection and disposal service and pay the charges provided therefore by this Chapter.
- (B) The collection of M.S.W. in the city shall be a part of the duties of the City Sanitation Department, the employees of which shall make periodic M.S.W. pickups throughout the city from the M.S.W. containers provided by the city and/or citizens of the city as required by this Chapter.
- (C) It shall be unlawful for any person, firm or corporation, other than employees of the City Sanitation Department, to collect M.S.W. in the city, unless otherwise approved by the Public Works Director.

- (D) Exception: The private collection of brush, shrubs, leaves, grass and tree trimmings and cutting of such for hire, or otherwise, shall be allowed notwithstanding the provisions of this Section. Provided however, such brush, shrubs, grass, and tree trimmings and cuttings shall be transported in a covered vehicle to the City Landfill located at 4100 E FM 700.

Sec. 11-6. Collection of City Furnished Containers.

- (A) The city will, in selected locations as determined by the Sanitation Department and approved by the Public Works Director, place containers of varying capacity for the collection of garbage and trash. Each person, firm or corporation shall be notified by the Sanitation Department of the container location assigned to that person, firm or corporation. The use of other containers is not permitted. The Sanitation Department shall place the appropriate sized containers throughout the city in such a manner to adequately serve all residential and commercial accounts. If the volume of garbage from any one commercial account is sufficient to justify a separate container for that establishment, the Sanitation Department shall so place a container at that location. Notwithstanding conflicting provisions herein and subject to the approval of the Public Works Director or his designee, Commercial Account holders may place garbage containers at designated locations.
- (B) The City of Big Spring shall provide individual roll-out trash containers to Residential Account holders where it is impractical to service the collection of solid waste through the utilization of 1 ½ yards or larger containers. The account holder shall be responsible for the safe keeping of the container. The containers must be rolled out on the morning of the scheduled pick up and returned to a place of safe keeping after it has been serviced by the Sanitation Department. If an individual roll out container is lost or destroyed, the account holder will be required to pay the full cost of a replacement container.
- (C) It shall be unlawful for any person, firm or corporation to block access to solid waste containers placed by the Sanitation Department in a manner that hinders the collection of solid waste. In the event a solid waste container is located in a street within ten (10) feet of the driveway of the residence to which it is assigned, there is a rebuttable presumption that the container was placed by the authority of the Public Works Director or his designee. Violations of this Section shall be punishable by a fine in accordance with Section 11-17 of this chapter.

Sec. 11-7. Physical Accessibility of City Furnished Containers.

If any person is not physically capable of accessing a city furnished 1 ½ or 3 yard container for proper disposal of garbage or trash, that person may request that an individual roll-out trash container be provided for their individual use. Requests shall be made in writing to the Public Works Director and a statement from a licensed physician, that of which shall be updated annually, is

required. Failure to update the required physician's statement on an annual basis will result in the removal of the container.

Sec. 11-8. Existing Customers Outside City Limits.

Customers, commercial or residential, that are current customers as of the effective date of this ordinance shall continue to receive service until such account is terminated by the customer or by the city for non-payment. No new accounts outside the city limits shall be permitted.

Article 2. Garbage Collection and Landfill Fees

Sec. 11-9. Fees

(A) Residential Rates – picked up once a week only

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| (1) | Single family dwelling units | \$ 19.10 |
| (2) | Additional roll out for single family dwelling units | \$ 15.50 |
| (3) | Additional requested pick-ups of containers | \$ 10.00 |

Before a sanitation truck is dispatched for an additional pick-up request, the account holder (or his/her designated representative) must:

- (a) be present at the pick-up location at the time of pick-up; or
- (b) execute an "Additional Pick-up Request Form" at the Landfill Office.

(B) Commercial Rates

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|-----|---------------------------|----------|
| (1) | One collection each week: | |
| | (a) 1.5 cu. yd. Container | \$ 32.85 |
| | (b) 3 cu. yd. Container | \$ 42.19 |
| (2) | Two collections weekly: | |
| | (a) 1.5 cu. yd. Container | \$ 65.70 |
| | (b) 3 cu. yd. Container | \$ 84.38 |

- (3) Four collections weekly:
 - (a) 1.5 cu. yd. Container \$ 131.40
 - (b) 3 cu. yd. Container \$ 168.76
- (4) Roll-off container service:
 - (a) 30 yd. Container \$ 15.00/day
 - (b) Landfill charge \$ 45.00/ton
 - (c) Scheduled collection service charge (Mon.-Fri.) \$ 150.00
 - (d) Delay charge - (Scheduled collection requiring more than 1 hour) \$ 50.00/half hr
 - (e) Unscheduled collection service charge \$ 250.00
 - (f) Delay charge – (Unscheduled collection requiring more than 1 hour) \$100.00/half hr
- (5) Private Owned Compactor Service:
 - (a) Service charge (scheduled except Wed.) \$ 125.00
 - (b) Service charge (unscheduled except Sat. and Sun.) \$ 250.00
- (C) Landfill Entry/Use Fee/Proof of Residence – All City of Big Spring and Howard County Residents:
 - (1) Landfill entry requires two (2) forms of proof of residence. (Drivers License & utility bill – addresses/name/photo must match) Non City of Big Spring/Howard County waste is not accepted at the landfill.
 - (2) Landfill Charges
 - (a) Limb/Brush/Clippings disposal \$ 45.00/ton
 - (b) Large items or additional household trash \$ 45.00/ton
 - (c) Unsecured Load \$ 15.00

- (3) Private Compactor Service – M.S.W. \$ 45.00/ton
- (4) Special Waste \$ 100.00/ton

The City Manager’s written approval is required prior to receipt of any waste that, by its physical nature, requires special handling by site personnel.

- (5) Environmental Fee: \$ 1.25
(Assessed to each residential or commercial unit)

Sec. 11-10. Failure to Pay.

The charge fixed in this Article for the removal and disposal of M.S.W. at the City Landfill shall be entered by the Finance Director as a charge against each owner, occupant or lessee on the water and wastewater account of the city. Should any person fail or refuse to pay the charges fixed against him/her residence or place of business when due, the city shall be authorized to cut off and disconnect the water and wastewater services to the responsible party’s place of residence or business against which M.S.W. service fees have been fixed and assessed, and, in addition thereto, shall be authorized to discontinue M.S.W. services until said fees have been paid in full.

Sec. 11-11. No Credit for Vacancy of Premises.

No credit will be given on the M.S.W. service charges fixed by this Article to any owner, occupant or lessee of any residence or place of business for vacancy thereof, unless the city is notified in writing at least ten (10) days in advance to discontinue water, wastewater and M.S.W. service to said premises.

Sec 11-12 – Sec 11-13. Reserved.

Article 3. Permits

Sec. 11-14. Permit for Private Collectors.

(A) Permit Required

No person except the duly authorized agents and employees of the city or those persons exempted by Section 11-4 and private collectors permitted under this article shall collect, remove and dispose of M.S.W., empty M.S.W. receptacles, or convey or transport garbage or M.S.W. on the streets, alleys and public thoroughfares of the city, for compensation.

(B) Application

Any private collector desiring a permit to bring M.S.W. into the City Landfill from outside the city limits shall make application therefore to the City Manager or his authorized representative.

Such application shall provide:

- (1) The name and address of the applicant;
- (2) The trade name under which the applicant does or proposes to do business;
- (3) The number of vehicles to be used in said business;
- (4) Whether or not the applicant has been convicted of the violation of any federal, state or municipal law;
- (5) Whether or not the applicant, or any person with whom he has been associated or employed, has a claim or judgment against him/her for damages resulting from the negligent operation of a vehicle;
- (6) The financial ability and responsibility of the applicant and proof of applicant's ability to respond to damages in the event damage occurs to persons or property by reason of the negligent operation of a vehicle on the streets and/or public thoroughfares of the city;
- (7) The nature and character of the service the applicant proposes to render;
- (8) The experience applicant has had in rendering said service;
- (9) Patrons for whom applicant proposes to render this service and any other information the City Manager may require.

(C) Applicant to Furnish List of Customers.

No applicant shall be issued a permit under this article unless a customer list has been provided to the City Manager, or his authorized representative. Any addition or deletion of customers after the permit is issued shall be promptly reported to the City Manager, or his authorized representative. Failure to report changes to the customer listing shall be grounds for revocation of the permit.

(D) Permit Fee.

The fee for a permit required by this Article shall be Four-Hundred dollars (\$400.00) per collection vehicle. Such fee shall be payable in advance before a permit is issued

and may be prorated upon approval of the Public Works Director or his designee. In addition to the permit fee, a disposal fee of Forty-Five dollars (\$45.00) per ton, and other surcharges as prescribed in this chapter, shall be assessed as required.

(E) Investigation.

Upon receipt of an application for a permit required by this article, the City Manager, or his designee, shall make or cause to be made an investigation to determine if the applicant is a fit and proper person to conduct said business and whether or not the public convenience and necessity require the granting of said permit.

(F) Permit to be Attached to Vehicle or Carried on Person; Inspection.

Every permit issued under this article shall be attached to the vehicle used for the collection and removal of M.S.W. or shall be in the possession of the person rendering said service, and shall be subject to inspection at all times.

(G) Permit Not Transferable.

No permit issued under this Article shall be transferable.

(H) Expiration/Renewal.

A permit issued under this Article shall expire on September Thirtieth (30th) of each year and shall be renewed by payment of the required aforementioned fees and compliance with all other provisions of this Article.

(I) Revocation.

A permit issued under this Article may be revoked by the City Manager at any time if such action is deemed to be in the best interest of the public.

Article 4. Enforcement

Sec. 11-15. Inspections by Manager; Authority to Enforce.

It is hereby made the duty of the Manager of the M.S.W. Collection Department, or his designee, to make regular inspection trips to determine whether garbage is being properly disposed of and to further determine if containers of the kind required by this Chapter have been obtained by the persons required to use the same under this Chapter. It is hereby made the duty of said Manager, or his designee, to file a complaint against any person violating any provision of this Chapter in order that said person may be prosecuted therefore.

Sec. 11-16. Penalty.

Any person or persons, firm or corporation who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than five dollars (\$5.00) nor more than one thousand dollars (\$1000.00) for each offense, and each violation hereof shall be deemed a separate offense and each day's continuance or failure to comply herewith shall constitute a separate and distinct offense for each of said days.

SECTION 2. THAT should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby.

SECTION 3. THAT all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

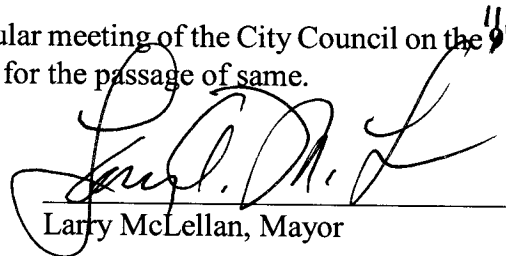
SECTION 4. THAT this ordinance shall take effect on October 1, 2014, following its passage in accordance with the provisions of the Charter of the City of Big Spring, and it is accordingly so ordained.

SECTION 5. THAT the City Secretary is hereby ordered and directed to cause the descriptive caption, as well as the penalties for violation of this ordinance to be published as provided by law.

SECTION 6. THAT it is officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **26th** day of **August, 2014**, with all members voting "aye" for the passage of same.

PASSED AND APPROVED on second reading at a regular meeting of the City Council on the **9th** day of **September, 2014**, with all members voting "aye" for the passage of same.



Larry McLellan, Mayor

ATTEST:

Tami Davis, Asst. City Secretary