

ORDINANCE NO. 2011-1

AN ORDINANCE OF THE CITY OF JAMAICA BEACH, TEXAS, TO PROVIDE MORE EFFECTIVE AND EFFICIENT POLICIES AND PROCEDURES FOR THE COLLECTION OF GARBAGE, TRASH AND REFUSE IN THE CITY OF JAMAICA BEACH; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, the City Council of the City of Jamaica Beach, Texas deems it in the best interest of law enforcement and the citizens to adopt this ordinance for the establishment and to regulated a more effective and efficient policies and procedures for the collection of garbage, trash and refuse; and,

WHEREAS, this ordinance covers topics that include garbage receptacle requirements, times when receptacles may be in a public area, dumpster and compactor screening, commercial refuse operations, brush and trash pickup, municipal service limitations, and the prohibition of scavenging of recyclable materials from residential and commercial areas;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMAICA BEACH, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

ARTICLE I. IN GENERAL

(1.) Scope.

All garbage, trash, recycling and refuse collection within the city shall be controlled by the provisions of this Ordinance.

(2.) Definitions.

As used in this Ordinance, the following terms shall have the meanings respectively ascribed to them in this section:

Brush: Tree limbs and other cuttings from branches of trees and shrubs.

Commercial: Any premises that are used for income producing purposes, including apartments larger than 4-plexes, except that boarding houses or rooming houses, which shall be considered to be a group of residential units. All premises that contain greater than four units of residential habitation under one (1) common roof shall be considered "commercial" for the purposes of this chapter. A 4-plex that is part of an associated series of buildings shall be considered "commercial" for the purposes of this chapter if the premises are controlled by a homeowner's or condominium association and that association pays one water bill for all residents of the condominiums.

Edible: Edible to either humans or animals.

Garbage: Every refuse accumulation of animal, fruit or vegetable matter attending the preparation, use, cooking and dealing in or storage of meats, fish, fowl, fruit, vegetables or grains and may also include wastepaper and other miscellaneous household rubbish. *Manufacturing plant:* A business which produces products from raw materials by mechanization through division of labor.

Private residential recycling hauler: An individual or company that collects recyclable materials from a residential customer.

Processing plant: Any establishment which by various processes transforms meat, fish or poultry from its natural state into a substance which is edible with no or a minor amount of preparation such as cooking.

Receptacles: Containers that are appropriate for the placement of garbage and trash.

Recyclable materials: Useful materials that are extracted at the source prior to being discarded into the garbage, trash or other waste stream to be eventually reused, reprocessed, or reconditioned into a new use or function.

Refuse: Garbage or trash or any combination thereof.

Residential: All noncommercial premises, including 4-plexes, except as provided in the definition of "commercial."

Trash: Paper of all kinds, rags, old clothing, paper and cardboard containers, old rubber, small pieces of wood, boxes, barrels, crates, weeds, grass, twigs (but not brush), leaves and other similar type materials the collection of which is not prescribed by this Ordinance.

(3.) Dumpsters, compactors and screening.

(a) *Permit required.* It shall be unlawful for any person to use any commercial refuse container service, including but not limited to, dumpsters or compactors, within the city limits without first obtaining a city permit from the City Administrator and/or City Staff during normal business hours.

(b) *Application procedure.*

(1) The applicant shall submit a permit application in a form prescribed by the City Administrator. The permit application shall be accompanied by site plans, drawings, descriptive data, and the applicable permit fee.

(2) The owner of the premises and the applicant shall verify, under oath or affirmation, that the owner authorizes the commercial refuse container service and the enclosure to be used. The owner of the premises, the applicant and the refuse company shall verify, under oath or affirmation, that the enclosure to be used does not violate any applicable deed or similar restrictions.

(c) *Permit dates:* Each permit issued shall be valid for one (1) year from the date of issuance. Not less than thirty (30) days, nor more than sixty (60) days, before the expiration of the permit, the permit holder must apply for an extension of the permit. Such extension shall be submitted to the City Administrator. Such extension must be accompanied by the applicable permit renewal fee. The city shall automatically revoke any permit that is not renewed timely as set forth in this section. In the event a permit is revoked for failure to timely renew the permit, the applicant must apply for a new permit, as if a permit had never been issued. Upon approval of the application for

extension, the City Administrator shall issue a renewal permit, which shall be valid for one (1) year from the date of issuance, or for the time period prescribed by state law.

- (d) *Fees.* Annual permit fees shall be twenty-five dollars (\$25.00) for each commercial refuse container. The applicant for a permit or extension of a permit shall not be entitled to a refund of any portion of the permit fees in the event the permit application is rejected or revoked.
- (e) *Identification of containers.*
 - (1) Each commercial refuse container shall be clearly marked with the name of the refuse company servicing the container;
 - (2) Each container shall have an individually numbered permit, as provided by the City;
 - (3) A copy of the permit shall be held by the applicant.
- (f) *Maintenance requirements.* All containers and screening shall comply with the following:
 - (1) No container shall intrude upon the city right-of-way unless the city has issued a license to use;
 - (2) All container lids and sliding doors shall remain closed at all times, except when refuse is being deposited or serviced by the refuse company;
 - (3) All enclosure gates shall be kept closed at all times except when refuse is being deposited or serviced by the refuse company;
 - (4) Overflowing garbage and trash, including any liquid effluent, from any container, or around any enclosure is strictly prohibited;
 - (5) No container shall be moved from its permitted location, except by an agent of the city for the purpose of enforcing the requirements herein, or by the refuse company;
 - (6) After servicing the container, the refuse company shall return the container to the proper enclosure.
- (g) *Trash container screening:*
 - (1) *New and Existing Businesses.* Commercial refuse franchise companies shall not service commercial refuse containers that do not display valid city permits. The City of Jamaica Beach shall not issue permits for display if the commercial refuse container is not screened in accordance with this section.
 - (2) *Screening requirements.* A solid fence, having a minimum height of five (5) feet, shall be installed and maintained on all sides of the container such that the container is completely enclosed within the fence. The entire height of the container shall be screened. Screening shall be properly installed and designed so as not to protrude into the city right-of-way. Should protrusion into the city right-of-way be necessary, the property owner shall obtain either a variance from the screening requirements or shall obtain a license to use the city right-of-way.
 - (3) *Suggested screening design.* Because of the permanent nature of the screening, the City recommends the screening be built to accommodate a

refuse container suitable for future capacity needs. Generally, a ten (10) cubic yard dumpster is the largest standard commercial capacity.

- (4) *Container placement.* Refuse containers shall adhere to the following guidelines:
 - a. Commercial refuse containers may be no closer than twenty (20) feet to a residential structure;
 - b. Commercial refuse containers may be no closer than twenty (20) feet from the property line of a public park or public recreation area;
 - c. Commercial refuse containers with an individual capacity of 40.5 cubic feet or more shall not be placed within five (5) feet of a combustible wall, opening, or combustible roof eave line;
 - d. Commercial refuse containers may not be placed within the required front setback or front yard.
- (5) *Exceptions to screening.* All commercial refuse containers shall be screened in accordance with subsections 4(g)(2) and 4(g)(3) unless one of the following conditions is met:
 - a. Refuse container is located within a structure or solid fenced area, and is not visible at eye view from any point on a point on a lot line of the abutting premises, or from any point on street;
 - b. Temporary or exchangeable refuse containers, as determined by the city;
 - c. Containers on state or federal property.
- (6) *Exceptions to permitting.* The following commercial refuse containers shall be exempt from obtaining permits:
 - a. Temporary or exchangeable refuse containers, as determined by the city;
 - b. Containers for recyclable goods.

(h) Penalties.

- (1) Any person violating any provision of this section shall be subject to a fine not to exceed five hundred dollars (\$500.00). Each day a violation of this section occurs shall constitute a separate offense.
- (2) Any person violating any provision of this section shall be subject to revocation of its permit.

(4.) Violations.

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor. No collection service shall be provided when the provisions of this Ordinance are violated. Such collection service shall be suspended until such violations have been ceased and abated.

SECTION 2. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 3. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 4. This Ordinance shall be and become effective 30 days after its adoption.

APPROVED AND ADOPTED this the 20th day of June, 2011.



Victor Pierson, Mayor



Lupe Rushing, City Secretary