

ORDINANCE NO. 3135

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF MESQUITE TO ADD ARTICLE IV RELATING TO THE MUNICIPAL COMPOSTING FACILITY, ADOPTING REGULATIONS FOR SUCH SERVICES AND ESTABLISHING RATES FOR SAME; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED \$500 FOR EACH OFFENSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

WHEREAS; the City Council of the City of Mesquite, Texas has determined that it is in the best interest of the City and its' citizens to amend Chapter 14 of the Code of Ordinances of the City of Mesquite relating to the municipal composting facility, adopting regulations for providing such services and establishing rates for services to be provided therein;

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

SECTION 1. That Chapter 14 of the Code of Ordinances of the City of Mesquite, Texas (the "Code") is hereby amended to add a new Article IV to read as follows:

ARTICLE IV. MUNICIPAL COMPOSTING FACILITY

Sec. 14-70. General regulations.

(a) All organic landscape materials suitable for composting, as determined by the city, may be hauled to the municipal composting facility for chipping, mulching, and composting by the city at the location or locations designated by facility operating personnel during normal operating hours as provided herein.

(b) The city may reject any and all such materials that facility operating personnel determine is not suitable for composting operations.

(c) Use of the municipal composting facility is restricted to the city's departments; city residential solid waste customers; city non-residential or commercial solid waste customers, commercial haulers, and other persons hauling materials from property within the city having a valid permit as provided herein; and such others having a valid agreement approved by the city manager or his duly appointed representative, provided, that permits for other public entities shall be approved by the city council.

(d) Processed organic landscape materials produced at the municipal composting facility shall become the property of the city to be used, distributed, and/or sold in accordance with the provisions of this article.

Sec. 14-71. Hours of Operation.

Hours of operation of the municipal composting facility shall be as determined by the city manager or his designee and shall be posted in a conspicuous manner near the entrance to the facility.

Sec. 14-72. Transportation requirements.

(a) All vehicles hauling materials to the municipal composting facility must have a suitable cover placed over the load or have the materials in an appropriate container, as determined by facility personnel, to prevent the materials from blowing or falling from the vehicle.

(b) The operator of any commercial vehicle arriving at the municipal composting facility with materials without a suitable cover or container, shall pay a surcharge of \$5.00, in addition to any other applicable fees or charges, to defray the expense of litter clean-up.

Sec. 14-73. Facility user fees.

(a) All persons using the facility, except city residential solid waste customers as provided herein, shall pay a user fee and possess a valid permit issued by the city.

(b) The following fees shall be charged for organic landscape materials brought to the municipal composting facility:

- (1) un-chipped landscape materials.....\$2.70 per cubic yard
- (2) pre-chipped landscape materials.....\$1.50 per cubic yard

(c) City residents hauling landscape materials from their place of residence where they reside as owners and pay a residential solid waste fee to the city will not be charged a fee. A valid Texas drivers license must be presented as proof of residency to the attendant on duty. A fee as established above will be charged for a resident's disposal of materials from commercial or rental property.

(d) Landscape materials from outside the city limits shall not be accepted unless a permit has been issued and approved by the city manager or, if from a

public entity, approved by the city council.

(e) Fees may be adjusted by the city council at a rate consistent with prevailing market conditions provided total revenues from such fees recover the costs of composting services.

(f) The city shall maintain records of all incoming loads of materials brought to the municipal composting facility and bill users on a monthly basis. Payment is due thirty (30) days after the invoice date. Any balance remaining unpaid more than thirty (30) days after the date of invoice shall be assessed a penalty as established in this article each month until paid.

Sec. 14-74. Use, distribution and sale of processed materials.

(a) Processed organic landscape materials produced at the municipal composting facility may be used by city departments at the discretion of the city, which use is hereby authorized.

(b) Any such materials produced which are not needed by the city may be available to residential customers at no cost for home projects only or sold as provided herein.

(c) A limited quantity of processed materials may be available, on a first-come, first-serve basis, as provided herein. In order to make such materials available to as many as possible, a limit may be placed on the total amount available to any individual.

(d) Materials produced at the municipal composting facility may be purchased, when available, during normal operating hours as follows:

- (1) mulch.....\$2.00 per cubic yard
- (2) compost.....\$4.00 per cubic yard

(e) Although the city will make every effort to maintain adequate inventory, the availability of compost or related products is not guaranteed or assured.

Sec. 14-75. Permits.

(a) Any person hauling organic landscape materials to the municipal composting facility who is required to pay a user fee as set forth herein must first obtain a permit from the issuing authority.

(b) A non-refundable fee of one hundred dollars (\$100.00) is required for the issuance of a permit. A new fee and permit will be required upon a change of address of the person responsible for payment of the user fee established herein. No permit fee will be charged for a public entity using the municipal composting facility.

(c) Upon receipt of the required fee and completed application, the issuing authority shall issue a permit unless there is cause to believe that the applicant will not comply with each provision of this article.

(d) Each permit application must contain the name, address, and telephone number of the individual or representative who will be the permit holder responsible for the payment of the fees and charges levied in this article. A permit holder shall inform the issuing authority of any change that alters information listed on the permit application.

(e) A permit cannot be transferred to another person.

(f) A permit may be refused, suspended or revoked upon the occurrence of the following:

- (1) if any false statement or misrepresentation of a material fact is made by an applicant for the purpose of obtaining a permit;
- (2) upon the failure or refusal to comply with any of the provisions of this article, including the payment of all fees or charges established herein.

Sec. 14-76. Penalties.

Any person required by the provisions of this article to pay to the city the fees and charges imposed herein who shall fail to pay same or any such person who violates any of the provisions of this article:

- (1) shall be deemed guilty of a misdemeanor and, upon conviction, be punished by a fine as specified in section 1-6 of this Code; and

(2) shall pay to the city the amount due, together with a penalty of fifteen percent (15%) of the amount due.

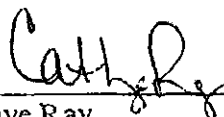
SECTION 2. That all provisions of the ordinances of the City of Mesquite, codified or uncodified, in conflict with the provisions of this ordinance are hereby repealed, and all other provisions of the ordinances of the City of Mesquite, codified or uncodified, not in conflict with the provisions of this ordinance, shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 4. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars for each offense.

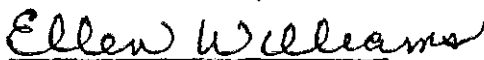
SECTION 5. That the present ordinances of the City of Mesquite are inadequate to regulate the operations of the municipal composting facility which creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas on the 21st day of January, 1997.




Cathye Ray
Mayor

ATTEST:



Ellen Williams
City Secretary

APPROVED:



B.J. Smith
City Attorney

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