

ORDINANCE NO. 3651

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 14 OF THE CODE OF THE CITY OF MESQUITE BY PROVIDING CERTAIN AMENDMENTS AND DELETIONS THEREBY ESTABLISHING PROVISIONS FOR SOLID WASTE COLLECTION AND DISPOSAL; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Mesquite (the "City") has adopted provisions for collection and disposal of solid waste; and

WHEREAS, the City has provided regulations for solid waste, facilities and services pertaining to trash, waste and garbage; and

WHEREAS, it is in the best interest of the citizens of Mesquite that certain regulations relating to solid waste facilities and services be added and amended.

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

SECTION 1. That Chapter 14 of the Code of the City of Mesquite is hereby amended as follows, in all other respects said Code and Chapter to remain in full force and effect.

1. Amend Section 14-1 by deleting the definition for *Non-collectable items* in its entirety and add the following to the list of definitions:

**Section 14-1. Definitions.**

*Authorized container* means container for commercial collection owned by the City or a container for commercial collection owned by the commercial customer using the container at their collection location.

*Solid Waste Division* means the Solid Waste Division of the City of Mesquite.

*Unauthorized container* means a commercial container placed at any location in the City that is not owned by the City or a commercial customer using the container at their collection location.

2. Amend Section 14-20 by deleting it in its entirety.
3. Amend Section 14-38 by deleting it in its entirety and adding a new Section 14-38 to read as follows:

**Sec. 14-38. Collection of large items and disposal of junk and trash from rental property.**

Except as otherwise provided in this section, collection of large items, heavy brush, trash, yard waste, solid waste or remodeling materials from vacant rental property may be arranged with the Solid Waste Division who may collect such items only after a fee, based on the quantity of items requiring disposal, has been paid to the Solid Waste Division. It shall be the responsibility of the property owner to notify the Solid Waste Division of the need for the service. The amount of the fee for this service shall be set by the City Council with any change of fee effective on the 1st of October of each year.

Where removal of remodeling materials is in conjunction with a remodeling project requiring a building permit, removal of the remodeling materials is the responsibility of the owner who must provide for removal of the materials to a state approved landfill or make arrangements with the Solid Waste Division for authorized container collection.

4. Amend by adding a new Section 14-39 to read as follows:

**Sec. 14-39. Collection from unimproved vacant lots.**

Large items, heavy brush, trash or solid waste will not be removed from vacant lots by the City as part of the regular pickup service. Special collection of such items may be arranged with the Solid Waste Division who may collect such items only after a fee for such service, based on the quantity of items requiring disposal, has been paid to the Solid Waste Division. It shall be the responsibility of the property owner to notify the Solid Waste Division of the need for the service. The amount of the fee for this service shall be set by the City Council with any change of fee effective on the 1st of October of each year.

5. Amend by adding a new Section 14-40 to read as follows:

**Sec. 14-40. Collection of solid waste not generated at residential location.**

Collection of large items, heavy brush, trash, yard waste or solid waste not specifically generated from the location where waste is placed for collection may be arranged with the Solid Waste Division who may collect such items only after a fee, based on the quantity of items requiring disposal, has been paid to the Solid Waste Division. It shall be the responsibility of the property owner to notify the Solid Waste Division of the need for the service. The amount of the fee for this service shall be set by the City Council with any change of fee effective on the 1st of October of each year.

6. Amend by adding a new Section 14-41 to read as follows:

**Sec. 14-41. Brick, broken concrete, lumber, etc.**

Except as provided in this section, heavy accumulations, such as brick, broken concrete, lumber, ashes, clinkers, dirt, plaster, sand, gravel or automobile frames shall not be removed as part of the regular collection service. Such items shall be disposed of at the expense of the owner or person controlling the same at a state approved landfill, or upon payment of a fee to the Solid Waste Division, container collection of such items may be arranged with the Solid Waste Division. The items will then be removed by the City or a contract waste collector of the City. Container collection by other than the City or a contract waste collector of the City is prohibited. The amount of the fee for this service shall be set by the City Council with any change of fee effective on the 1st of October of each year.

7. Amend by deleting Section 14-46 in its entirety and adding a new Section 14-46 to read as follows:

**Sec. 14-46. Collection schedule.**

Collection of garbage in the business districts and from hotels, motels and restaurants shall be made no less than twice weekly when utilizing 2-, 4-, 6- and 8- cubic-yard containers. Once a week collection will be permitted if waste is compacted in 20-, 30- or 42- cubic-yard leak-proof containers and such collection is in compliance with applicable state and federal law.

8. Amend by deleting Section 14-51 in its entirety and adding a new Section 14-51 to read as follows:

**Sec. 14-51. Unauthorized containers.**

- (a) Only authorized containers may be used for commercial collection. It shall be unlawful and a violation for any person to place or use an unauthorized container at any location in the City and unauthorized containers are subject to being impounded by the City or its authorized contractor as provided in this section.
- (b) If an unauthorized container is found at any location in the City, the owner of the container or the owner of tenant of the property on which the container is located shall be notified that the container is in violation of City Ordinance and continued use of the container will subject them to "fines" and that the container is subject to being impounded. Notification shall be made in person, if the owner of the container or the owner or tenant can be found on the premises where the container is located, or by telephone, if a telephone number can be reasonably ascertained and a connection can be made. If notification cannot be made in person or by phone, notice will be placed on the container. If the unauthorized container is not removed within the time set forth in the notification, it is subject to impoundment by the City or its authorized contractor. Impounded containers shall be stored at the City Service Center or at a location within the City of Mesquite determined by the City Manager or his designee. Reoccurring violations will result in immediate confiscation of an unauthorized container without further notification.

- (c) After an unauthorized container has been impounded, the owner of the container shall be notified by registered mail or by telephone, unless the address and/or telephone number of the owner cannot be reasonably ascertained. The notification shall inform them that their container has been impounded, provide them with the location of the impounded container and the procedure for reclaiming the container as set out in this section.
  - (d) The City or its authorized contractor has the authority to impound and may impound an unauthorized container from any location in the City without liability for the removal of the unauthorized container.
  - (e) If an unauthorized container is not claimed within 3 months of the date of impoundment, the container will be deemed to have been abandoned by the owner and forfeited to the City and that upon forfeiture the owner will be forever barred from any and all claim or right to the container or any proceeds from the property.
  - (f) At any time from the date of impoundment until the expiration of 3 months from such date, the owner of the container may reclaim the container upon payment of a \$200.00 reclamation fee per container per occurrence, which amount encompasses the actual cost of such impoundment including but not limited to administrative costs, the cost of transportation, cost of disposal of contents, and cost of storage. If the container is not claimed before the expiration of 10 calendar days from the date the container is impounded, an additional \$10.00 per day storage fee will be charged for each day after the expiration of ten (10) days. Storage fees, in addition to the reclamation fee, must be paid prior to release of the container to the owner. If a container is not claimed within 3 months of the date of impoundment, the container will be deemed to have been abandoned by the owner and forfeited to the City and that upon forfeiture the owner will be forever barred from any and all claim or right to the container or any proceeds from the property.
  - (g) This section shall not apply to containers placed in the City for collection of recyclable materials, hazardous waste, medical waste, special waste and liquid waste.
9. Amend Section 14-52 by deleting the last sentence in the paragraph in its entirety and adding a new last sentence to read as follows:

The amount of the fee for this service shall be set by the City Council with any change of fee effective on the 1st of October of each year.

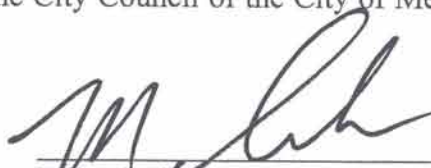
SECTION 2. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 3. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same 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 punishable by a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense.

SECTION 5. That the present ordinances of the City of Mesquite are inadequate in providing for solid waste collection and disposal, 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.

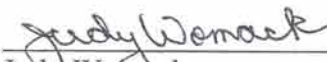
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 3rd day of May, 2004.



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Mike Anderson  
Mayor

ATTEST:



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Judy Womack  
City Secretary

APPROVED:



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B. J. Smith  
City Attorney