

ORDINANCE NO. 5074

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE CITY CODE BY MAKING CERTAIN ADDITIONS AND DELETIONS UNDER CHAPTER 14 "SOLID WASTE," ARTICLE III (COMMERCIAL COLLECTION) FOR THE PURPOSE OF PROVIDING UPDATED COMMERCIAL COLLECTION REGULATIONS, AND OTHER RELATED GENERAL REVISIONS; PROVIDING A CONFLICTS RESOLUTION CLAUSE; A SEVERABILITY CLAUSE; A SAVINGS CLAUSE; A PENALTY NOT TO EXCEED FOUR THOUSAND DOLLARS (\$4,000.00); PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

**WHEREAS,** it is the intent of the City Council of the City of Mesquite, Texas ("City Council"), to protect the public health, safety, and welfare; and

**WHEREAS,** the Solid Waste ordinance is in need of revisions to clarify certain details of the City's Commercial Collection services; and

**WHEREAS,** the City of Mesquite, Texas ("City"), is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, [Section 5](#) of the Texas Constitution and [Chapter 9](#) of the Texas Local Government Code; and

**WHEREAS,** a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, [Section 51.072\(a\)](#); and

**WHEREAS,** the City shall have the power to enact and enforce ordinances necessary to protect health, life, and property and to prevent and summarily abate and remove all nuisances, and to preserve and enforce good government, order, and security of the City and its inhabitants, pursuant to Article III, [Section 2](#) of the Mesquite City Charter; and

**WHEREAS,** a home-rule municipality may enforce ordinances necessary to protect health, life, and property, and to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, [Section 54.004](#), as amended; and

**WHEREAS,** the City Council finds that it is in the best interests of the citizens of the City to amend the Mesquite City Code as herein provided.

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

**SECTION 1. Recitals Incorporated.**

The City Council hereby finds and determines the recitals made in the preamble of this Ordinance are true and correct, and hereby incorporates such recitals here in the body of this Ordinance as if copied in their entirety.

**SECTION 2. MESQUITE CITY CODE TEXT AMENDMENT:**

**Amending Chapter 14 – Solid Waste.**

The Mesquite City Code is hereby amended as identified in **EXHIBIT A**, and said exhibit is attached hereto and made a part hereof, and in all other respects, said Code, Chapters, and Articles shall remain in full force and effect.

**SECTION 3. Conflicts Resolution Clause.**

In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

**SECTION 4. Severability Clause.**

Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance and the Mesquite City Code, as hereby or previously amended, which shall remain in full force and effect.

**SECTION 5. Savings Clause.**

An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Mesquite City Code, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

**SECTION 6. Penalty Clause.**

Any violation of the provisions or terms of this Ordinance by any “person,” as defined in Mesquite City Code, Chapter 1, [Section 1-2](#), shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine, or any other general penalties, as provided in Mesquite City Code, Chapter 1, [Section 1-6](#), as amended.

**SECTION 7. Publication.**

This Ordinance shall be published in the City’s official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#).

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**SECTION 8.**

**Effective Date.**

This Ordinance after its passage and publication shall take effect on, and be in force from and after, five (5) days after publication thereof, in accordance with Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ON THE 16th DAY OF OCTOBER, 2023.**

DocuSigned by:

*Daniel Aleman Jr.*

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**Daniel Alemán, Jr.**  
**Mayor**

**ATTEST:**

DocuSigned by:

*Sonja Land*

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**Sonja Land**  
**City Secretary**

**APPROVED AS TO LEGAL FORM:**

DocuSigned by:

*David Paschall*

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**David L. Paschall**  
**City Attorney**

## **EXHIBIT A**

**To Ordinance No. 5074**

City of Mesquite, Texas  
Mesquite City Code

Amending Chapter 14 – Solid Waste, Article III Commercial Collection.

## MESQUITE CITY CODE

\* \* \*

### Chapter 14 – SOLID WASTE

*[Editor's Note: Make the following revisions with additions identified in green font and underlined, and deletions identified in ~~red font with strikethrough~~.]*

\* \* \*

### ARTICLE III. – COMMERCIAL COLLECTION.

#### Sec. 14-45. – Charges for collection.

##### Sec. 14-45. Charges for collection.

- (a) For commercial establishments, apartment residences, boarding houses, restaurants and other food establishments, container storage and collection service shall be required. The schedule of rates for commercial front-load and commercial roll-off rates shall apply. See Appendix D for applicable fees.
- (b) Where container storage and service are inappropriate, residential-type collection may be allowed ~~in which event~~ and the charge shall be per month for commercial establishments and boarding houses. See Appendix D for applicable fees.
- (c) With the approval of the City, open top containers are available for certain commercial establishments. The charge shall be assessed at the rates established each time the container is emptied. See Appendix D for applicable fees.
- (d) With the approval of the City, open top containers are available to contractors and residents doing remodeling and repair work in a residential area. Temporary placement of such containers shall be for a maximum period of four (4) weeks annually but may be extended by the Manager of Solid Waste. The charge shall be assessed at the rates established each time the container is emptied. See Appendix D for applicable fees.
- (e) Commercial and industrial stationary compaction service is available upon request. The lease cost of such equipment will be established between the customer and the City. The charge shall be assessed at the rates established each time the container is emptied. See Appendix D for applicable fees.

##### Sec. 14-46. Frequency of Commercial Collection; Collection times. ~~Collection schedule.~~

- (a) Collection of commercial solid waste shall be made no less than once weekly when utilizing two-, four-, six- and eight-cubic-yard containers. Food establishments shall be serviced no less than twice weekly. Once a week collection will be permitted if waste is compacted in twenty-, thirty- or forty-two-cubic-yard leak-proof containers and such collection is in compliance with applicable state and federal law. Collection of recyclable materials shall be once weekly or as needed depending on volume of material.
- (b) All collection of solid waste must occur between the hours of 7:00 a.m. and 9:00 p.m. in areas in or within one thousand (1,000) feet of a residence.

~~Collection of solid waste in the business districts and from hotels, motels and restaurants shall be made no less than twice weekly when utilizing two, four, six and eight cubic yard containers. Once a week collection will be permitted if waste is compacted in twenty, thirty or forty two cubic yard leak-proof containers and such collection is in compliance with applicable state and federal law. Collection of recyclable materials shall be weekly.~~

### **Sec. 14-47. Container required.**

Every person owning, managing, operating, leasing or renting any premises or any place where trash, recyclable materials, yard waste or solid waste accumulates shall provide a sufficient quantity of containers for the sanitary storage of such trash, recyclable materials, yard waste or solid waste. Placement and screening of commercial containers shall be in conformance with the requirements of the Mesquite Zoning Ordinance.

### **Sec. 14-48. Shared containers. ~~Commercial container service; use of containers.~~**

To the maximum extent possible, container(s) shall be issued to each commercial customer necessary to accommodate their specific disposal needs. However, there are areas in the city that have limited space for container storage, or access is restricted for collection vehicles. In such cases, as approved by the Manager of Solid Waste, a container may be placed in a common area to serve several business activities or commercial customers.

~~In instances where commercial container service is provided pursuant to section 14-45 of this chapter, the following provisions shall be applicable:~~

- ~~(1) It shall be unlawful for any person, other than the lessee or his authorized representative, to deposit, cause or allow to be deposited, any type of waste or other substance in a container where such container is posted with a notice prohibiting such action.~~
- ~~(2) Proof that a motor vehicle was utilized to transport such unauthorized material to a location where such material was unlawfully deposited in a commercial container as provided herein and that said vehicle was registered with the Texas Department of Transportation in the name of a particular person shall be prima facie proof, rebuttable as in other cases, that the registered owner thereof deposited and caused such material to be deposited in such container.~~

### **Sec. 14-49. Use and requirements for Commercial/ Industrial/Recycle containers. ~~Obstructing commercial container servicing.~~**

- (a) It shall be unlawful for any person, other than the lessee or his authorized representative, to deposit, cause or allow to be deposited, any type of waste or other substance in a container where such container is posted with a notice prohibiting such action.
- (b) All commercial containers used under this Article shall be:
  - (1) constructed according to the Texas Department of Transportation regulations;
  - (2) equipped with suitable covers to prevent blowing or scattering of refuse while being transported for disposal of their contents;
  - (3) cleaned and maintained regularly by a City authorized provider so as to be in good repair and of good appearance and free of such refuse residues as may cause odor or provide a breeding place for flies or harborage for rodents;
  - (4) clearly marked with a City authorized provider name and phone number; and
  - (5) serviced by the City or a City authorized provider.

~~(a) — It shall be unlawful for any person to obstruct a commercial type container by parking in front of or within five (5) feet of either side of a commercial type container, or obstruct a commercial type container in any manner to where such obstruction would interfere with the servicing of the commercial type container.~~

~~(b) — A commercial type container is a container used for the storage and pickup of solid waste, recyclable materials, trash and debris, such container being in excess of two (2) cubic yards.~~

#### **Sec. 14-50. Litter, odor, insect control, and waste oil. ~~Manure and waste oils.~~**

(a) Sides and doors of all containers shall be kept closed at all times except when the container is being filled or unloaded for disposal.

(b) To control vectors and odor, putrescible waste shall be placed in sturdy, leak-proof bags, or disposable containers. The disposable containers or bags with contents shall be placed unbroken, into the commercial container.

(c) Waste oil or automotive oil may not be disposed in any commercial/industrial container. It will be the responsibility of the property owner to dispose of prohibited waste or pay for any hazardous waste cleanup.

~~Manure from cow lots, horse stables, poultry yards, pigeon lofts and waste oils from garages or filling stations shall be disposed of at the expense of the party responsible under the direction of the Manager of Solid Waste.~~

~~Cross reference(s) — Standards of sanitation for livestock pens and enclosures, § 4-33.~~

#### **Sec. 14-51. Unauthorized commercial 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 or 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 "~~finer~~ fees" 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 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 three 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 three (3) months from such date, the owner of the container may reclaim the container upon payment of a 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 ten (10) calendar days from the date the container is impounded, an additional daily 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 three (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 upon forfeiture the owner will be forever barred from any and all claim or right to the container or any proceeds from the property. See Appendix D for applicable fees.
- (g) This section shall not apply to containers placed in the City for the collection of hazardous waste, medical waste, special waste, and liquid waste.

Cross reference – Mesquite City Code, Appendix D – Ch. 14, Sec. 14-109.

### **Sec. 14-52. Prohibited items for commercial containers.**

- (a) It shall be unlawful to place any item in any container that because of weight, size, or other physical property, could cause damage to the collection vehicle. These items include, but are not limited to, any one (1) item over three (3) feet in any dimension, any one (1) item weighing in excess of fifty (50) pounds, any concrete, masonry products, or earthen materials.
- (b) It shall be unlawful for any person to start a fire, burn any material in a solid waste commercial container, or to paint or mark the same, or to place any poster, placard, or sign upon the same.
- (c) It shall be unlawful for any unauthorized person to deposit any garbage, trash, or other material in any container unless said person is paying for the collection service or is duly authorized to utilize the container by the owner or occupant of the premises.
- (d) Other items prohibited for placement in a container include: tires, tire and wheel components, dead animals, dead animal waste, lead acid batteries, paint, lawn mowers, liquid waste of any kind, engines, un-bagged or unsealed putrescible waste, and hazardous waste materials of any type.
- (e) Property owners are responsible for any prohibited material placed in or around a container.

### **Sec. 14-53. - Obstructing commercial container servicing.**

It shall be unlawful for any person to obstruct a commercial, industrial, or recycling container by parking in front of or within five (5) feet of either side of a commercial, industrial, or recycling container, or obstruct a commercial, industrial, or recycling container in any manner to where such obstruction would interfere with the servicing of the commercial, industrial, or recycling container.

### **Sec. 14-~~54~~52. Brush collection for commercial districts and other properties.**

The Solid Waste Division may collect large brush from commercial districts and other properties ~~property~~, including but not limited to commercial businesses, churches, and apartments, only after a fee has been paid to the Solid Waste Division. This fee shall be determined based on the quantity of brush requiring disposal. It shall be the responsibility of the property owner to notify the Solid Waste Division of the need for the service. The fee for this service is per load. See Appendix D for applicable fees.



**~~Sec. 14-53. Contracting with the City for commercial solid waste collection.~~**

~~A private contractor wishing to provide collection and disposal of commercial solid waste within the City must execute a standard contract with the City agreeing to the following minimum (not all inclusive) requirements in addition to the requirements and rate schedules within this Chapter:~~

~~(a) — Pay the City an agreement fee which may be paid in monthly installments. See Appendix D for applicable fees.~~

~~(b) — A street and alley use fee equal to nine (9) percent of the gross receipts.~~

**Sec. 14-~~55~~54. Permitting of private collection of recyclable materials; Commercial recycling services provided by City.**

- (a) A private contractor wishing to provide collection of recyclable materials shall make written application for a permit on forms provided by the Manager and upon approval shall pay the City an annual permit fee ~~annually~~. See Appendix D for applicable fees.
- (b) Such application and annual renewals shall include the operator's full name and street address, home number and whether the operator is an individual, firm, corporation or partnership, a list and address for all customers within the City and the destination(s) for the recycled materials.
- (c) Permits issued under provisions of this Chapter shall have a September 30th expiration date. For permits issued any time after October 1st, the fees shall be prorated as specified in the application form ~~shall remain in force for one (1) year from the date of issuance unless suspended or revoked.~~
- (d) All authorized containers and equipment shall be clearly marked with the permittee's company name or logo and a contact phone number.
- (e) The Manager shall have the right to deny, suspend or revoke a permit for the following reasons:
  - (1) The annual permit fee is not paid; or
  - (2) The permit holder or applicant provides false information or falsified documentation in its application; or
  - (3) The permit holder or applicant fails to comply with the requirements of this Article and to correct such actions within a time frame specified by the Manager.
- (f) Upon denial, suspension or revocation of a permit, the permit holder or applicant shall be notified in writing of the decision to deny, suspend or revoke said permit, of the reasons for such denial, suspension or revocation and of the applicant or permit holder's right to appeal.
- (g) An applicant or permit holder shall have the right to appeal the decision to deny, suspend or revoke a permit by submitting to the Director, within ten (10) business days of the receipt of notice of denial, suspension or revocation, a written request for a hearing before the Director. If a written request for a hearing is not received within such time, the action of the Manager is final.
- (h) Within ten (10) business days following the receipt of a request for an appeal, the Director shall provide a hearing at a time and place designated by him. The Director may continue the hearing for the convenience of either party or for the purpose of securing relevant evidence or witnesses.

- (i) The Director shall have the authority to sustain, modify or rescind any official notice or order issued by the Manager and shall render his decision in writing. A copy of the decision shall be furnished to the permit holder or applicant by the Manager.
- (j) All permitted contractors providing private recycling services within the City of Mesquite shall only accept and transport recyclable material. To verify compliance, permitted contractors providing private recycling services within the City of Mesquite shall submit to the Manager of the Solid Waste Division, the following:
- (1) Annually:
- a. Application for Permit; and
- b. Annual Permit Fee; and
- c. A list of commercial/industrial customers served with contact information; and
- d. The type of recycled material to be hauled.
- (2) Quarterly:
- a. A list of state-registered processing facilities to which the contractor is transporting recycled material. The facility may not be a recovery facility, a C&D facility, or dirty MRF (Materials Recovery Facility); and
- b. A report listing each commercial customer, type of material hauled, trip tickets, tons hauled, and the processing facility location where recyclable materials were taken. Failure to submit reports and trip tickets will result in permit being revoked.
- (k) The City of Mesquite has the ability to negotiate and provide recycling services to any and all commercial establishments.

Secs. 14-56 ~~14-57~~—14-69. - Reserved.

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