

CITY OF PECAN HILL, TEXAS

ORDINANCE NO. 2012-03

AN ORDINANCE OF THE CITY OF PECAN HILL, TEXAS, AMENDING ARTICLE 13.100 "GARBAGE AND REFUSE", SECTION 13.105 "GRANTING OF FRANCHISE, RATES, TERMS, INSURANCE AND FRANCHISE FEE;" RELATIVE TO AUTHORIZED TERMS OF AGREEMENTS AND REQUIRING SOLID WASTE COLLECTION FOR ALL RESIDENTIAL, COMMERCIAL AND INDUSTRIAL USERS BY THE CITY'S FRANCHISEE; AMENDING SECTION 13.106 "UNLAWFUL ACTIVITIES ENUMERATED" RELATIVE TO UNAUTHORIZED COLLECTIONS BY A NON-FRANCHISEE; AMENDING SECTION 13.108 "VIOLATION AND PENALTY" TO ESTABLISH ENFORCEMENT AUTHORITY, ADDITIONAL VIOLATIONS AND PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; REPEALING CONFLICTING ORDINANCES; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Pecan Hill is a Type A general law municipality; and

WHEREAS, the Texas Health and Safety Code, Chapter 365, regulates the proper disposal of litter, refuse and solid waste; and

WHEREAS, the Texas Health and Safety Code, Chapter 342, provides for the municipal regulation of sanitation; and

WHEREAS, proper sanitation and measures reasonably appropriate to effectuate such regulation are generally within the police powers of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PECAN HILL, TEXAS, THAT:

SECTION 1. All of the above premises are hereby found to be true and correct and are hereby approved and incorporated for all purposes into the body of this Ordinance as if copied in their entirety.

SECTION 2. The City Council hereby amends Article 13.100 "Garbage and Refuse", Section 13.105 "Granting of franchise, rates, terms, insurance and franchise fee" of the City of Pecan Hill Code of Ordinances, to hereinafter read as follows:

“ARTICLE 13.100 GARBAGE AND REFUSE

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Sec. 13.105 Granting of franchise, rates, terms, insurance and franchise fee.

- (a) The city may grant one or more franchise permit agreements for the collection of garbage and refuse within the territorial limits of the city.
- (b) All franchise permit agreements granted by the city council shall be for a term and under terms deemed to be in the best interest of the citizens of the city and in accordance with applicable law, as it may be amended.
- (c) It shall be the duty of the franchisee to devise a rate schedule for all collection service and post same as a matter of public record in the city hall.
- (d) Rate schedules, as proposed by the franchisee, shall be first submitted to the city council for approval. No fees shall be charged by the franchisee unless first being approved by the city council.
- (e.) Each franchisee shall submit copies of all required insurance policies, including but not limited to liability insurance and workers compensation to the city.
- (f.) Any violation of an ordinance of the city by the franchisee shall result in the franchisee’s permit being voided.
- (g.) All residences, institutions and commercial establishments or units within the city shall be required to make use of the refuse collection, removal and disposal service offered by the city through the waste management contractor or franchisee authorized by the city to provide such service.

SECTION 3. The City Council hereby amends Article 13.100 “Garbage and Refuse”, Section 13.106 “Unlawful activities enumerated” of the City of Pecan Hill Code of Ordinances, to hereinafter read as follows:

“ARTICLE 13.100 GARBAGE AND REFUSE

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Sec. 106. Unlawful activities enumerated.

- (a) It is hereby declared to be unlawful for any person or organization to place, dump, throw, or permit to be placed, dumped or thrown, or to permit to remain, or to accumulate, any garbage, or refuse on private property, except for the purpose of collection as herein provided; or to place or dump same on city property.

(b) It shall be unlawful for any person to collect or remove solid waste within the city unless such person is an employee of a franchisee/permittee.

SECTION 4. The City Council hereby amends Article 13.100 "Garbage and Refuse", Section 13.108 "Violations and penalty" of the City of Pecan Hill Code of Ordinances, to hereinafter read as follows:

"ARTICLE 13.100 GARBAGE AND REFUSE

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3.108 Enforcement; Violations; penalty.

- (a) The provisions of this article shall be enforced by the city's Mayor, Code Enforcement Officer, Code Compliance Officer, or their designee. It shall be unlawful for any person to interfere with or hinder city's Mayor, Code Enforcement Officer, Code Compliance Officer, or their designee in the exercise of their duties under this article. Any person authorized to enforce the provisions of this article may issue immediate notice of violations to persons violating any provision of this article and such criminal violations shall be prosecuted in the city's municipal court and/or other court of competent jurisdiction.
- (b) It shall be unlawful for any person to intentionally or knowingly discard, deposit or dispose, or allow or permit the discarding, depositing or disposal of litter, garbage, trash, debris or other solid waste upon any public or private property which is not a solid waste disposal site and/or container approved by the city or the state.
- (c) It shall be unlawful for any person to intentionally or knowingly allow or permit another person to discard, deposit or dispose of litter, garbage, trash, debris or other solid waste on real property which such person owns, occupies or is in control of, unless such real property is a solid waste disposal site and/or container approved of by the city or the state.
- (d) It shall be unlawful for any person to intentionally or knowingly fail to remove litter, garbage, trash, debris or other solid waste on real property which such person owns, occupies or is in control of within 48 hours after such litter, garbage, trash, debris or other solid waste has been placed on such real property unless such real property is a solid waste disposal site and/or container approved by the city or state.
- (e) The owner of the real property is the primary responsible party for duties, obligations and for any violation committed herein. An employee of the owner shall not be held responsible for violations of this article if the employee provides the city with the name, address and telephone number

of the owner. If the property owner is out of state, the employee or management company is considered the agent for service of citation and service upon said agent has the same legal effect as service on the owner for purposes of fines against the owner or property, including a warrant or capias.

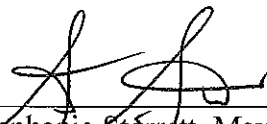
- (f) Any violation of the terms of this article is hereby declared to be a public nuisance and shall be subject to abatement by all methods of law.
- (g) The penalties and remedies stated herein are non-exhaustive and nothing herein shall prevent or preclude the city from taking all appropriate action allowed by law, including but not limited to injunctive relief
- (h) Unless otherwise specifically provided in this article, or in state law as it exists or may be amended, an offense committed herein, is a misdemeanor and any person, firm or corporation violating any provision of this article, upon conviction, shall be fined an amount not to exceed the sum of Five Hundred Dollars (\$500.00), and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- (i) To the extent a fine to be imposed for an offense committed under this Article does not exceed Five Hundred Dollars (\$500.00), and unless otherwise specifically set forth herein or in state law as adopted, allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this article.”

SECTION 5. If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6. All ordinances, orders and resolutions heretofore passed and adopted by the City Council of the City of Pecan Hill, Texas are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

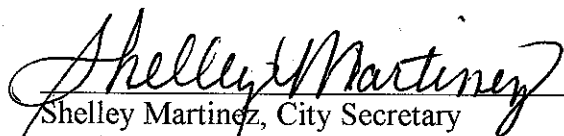
SECTION 7. The fact that the present ordinances and regulations of the City of Pecan Hill, Texas, are inadequate to properly safeguard the health, safety, morals, peace and general welfare of the inhabitants of the City of Pecan Hill, Texas, creates an emergency for the immediate preservation of public business, property, health, safety and general welfare of the public that requires that this Ordinance shall become effective from and after the date of its passage and it is accordingly so ordained.

DULY PASSED, APPROVED AND ADOPTED by the City Council of the City of Pecan Hill, Texas, on this 21st day of February, 2012.



Stephanie Starrett, Mayor
City of Pecan Hill, Texas

ATTEST:



Shelley Martinez, City Secretary
City of Pecan Hill, Texas