

**AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS**

**ORDINANCE NO. 03-2023**

**AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 19 “UTILITIES”, BY REPEALING ARTICLE 19.02 IN ITS ENTIRETY AND REPLACING WITH A NEW ARTICLE 19.02 “SOLID WASTE”; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Article 19.02 of the City of Seagoville Code of Ordinances provides for Solid Waste collection and regulations within the City; and,

**WHEREAS**, due to a recent change in the contractor selected to act as an agent of the City to collect and dispose of garbage, rubbish and trash within the City, amendments to the existing regulations are necessary; and

**WHEREAS**, to ensure residential and commercial solid waste customers are provided with the most up to date information concerning the placement, collection and disposal of solid waste, Article 19.02 is being amended as provided herein;

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

**SECTION 1.** The Code of Ordinances of the City of Seagoville, Texas is hereby amended by amending Chapter 19 “UTILITIES”, by repealing Article 19.02 in its entirety and replacing with a new ARTICLE 19.02 “SOLID WASTE”, which shall read as follows:

**“CHAPTER 19  
UTILITIES**

...

**ARTICLE 19.02 SOLID WASTE**

**DIVISION 1**

**Generally**

**§ 19.02.001. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this article:

*Brush.* Any cuttings or trimmings from trees, shrubs, lawns, and similar materials. To be considered brush, limbs should not exceed four (4) feet in length and not exceed four (4") in diameter. No bags, bundles, or containers shall exceed forty (40) pounds in total weight. The term "Brush" specifically excludes debris resulting from services of a Commercial Service Provider.

*Cart, Poly Cart, and Wheeled-Container.* A 95-gallon plastic receptacle issued by Contractor to Residents, equipped with wheels, handles, and a tight-fitting cover, designed for automated waste collection vehicles. Separate carts are used and issued for recycling and for trash collection and disposal. The weight of a Cart and its contents shall not exceed approximately 170 lbs.

*Contractor or collection [collector].* Any duly authorized individual or company contracted by the city to act as an agent of the city to remove garbage, rubbish, and trash from the city.

*Dumpster.* A watertight, all metal container equipped with a tight-fitting metal or plastic cover, plugged to prevent drainage of leachate, being not less than two (2) cubic yards or more than eight (8) cubic yards in capacity and which is suitable for mechanical lifting and dumping.

*Garbage.* Rubbish, trash, kitchen and household waste, ashes, paper and food containers.

*Rubbish.* Non-putrescible Solid Waste (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

*Yard waste.* Brush, grass clippings, or other organic material produced as a result of landscape maintenance.

**§ 19.02.002 Collection restricted to authorized collectors.**

The collection of garbage, trash, and rubbish or any kind of junk within the city by any person other than employees or agents of the city is prohibited.

**§ 19.02.003 Standards for bags and containers.**

(a) Each owner, agent, occupant, tenant and lessee of any house, building or

apartment in the city where persons reside, board, lodge or carry on any business or other activity, or where animal or vegetable food is prepared or served, shall cause to be provided, for each such house, building or apartment, disposable refuse bags or garbage containers meeting the requirements of this section.

- (b) Refuse bags provided under this section shall be of a type and quality approved by the city. Only such refuse bags as are manufactured for use as garbage container bags shall be approved by the city. All bags shall be sealed or tied securely.
- (c) Garbage containers provided under this section shall be watertight, of a solid and durable grade of metal or plastic. The combined weight of the garbage and the container shall not exceed one hundred seventy (170) pounds. The container must not have any inside structures, such as inside bands and reinforcing angles, or anything within the container to prevent the free discharge of its contents.

§ 19.02.004 **Deteriorated or damaged containers.**

Garbage containers that have deteriorated or that have been damaged to the extent of having jagged or sharp edges capable of causing injury to persons whose duty it is to handle the containers, or to such an extent that the covers will not fit securely, will be condemned by the city and/or contractor, and, if such containers are not replaced after notice to the owner or user of their defective condition, they shall be confiscated.

§ 19.02.005 **Storage of waste; unlawful deposit of waste in dumpster.**

- (a) All residential customers, and commercial customers who generate less than two (2) cubic yards of garbage, trash and rubbish per week, must store their garbage, trash and rubbish in bags, which are fully contained in carts, or in poly cart. Commercial customers who generate more than two (2) cubic yards of garbage, trash and rubbish per week must use dumpsters provided by the authorized contract collector for the storage of solid waste.
- (b) Customers using dumpsters are required to maintain the area around the dumpsters and to insure adequate storage space for the amount of waste normally generated by the establishment using the dumpsters by providing an adequate number and/or size, and/or collection rate, of the dumpsters made available. It shall be unlawful for any commercial customer or establishment using dumpsters to place, or cause to be placed, refuse at the side of the dumpsters for the purpose of its disposal.
- (c) Those business establishments, their agents and representatives which use a dumpster shall be deemed the sole users of said dumpster. Any person, firm or corporation found guilty of depositing brush, trash, garbage and/or rubbish into a dumpster without the permission of the sole user of said dumpster shall be guilty of a misdemeanor and subject to the fines and penalties authorized by the

Code of Ordinances.

§ 19.02.006 **Frequency of collection.**

- (a) The frequency of collection of all garbage, rubbish or trash by the city or an authorized contract collector shall be determined and/or changed by resolution of the city council.
- (b) A minimum of once-a-week collection is required for all commercial customers. A minimum of twice-a-week collection is required of all restaurants, supermarkets, mobile home parks and apartment complexes using dumpsters for the storage of tenants' solid waste, and for any other business, commercial or industrial establishment which disposes excessive garbage or trash which could promote odors, flies, the breeding or accumulation of rats and rodents, or any other health hazard or nuisance. Any commercial customer can request up to six (6) collections or pickups per week.

§ 19.02.007 **Placement for collection and storage.**

- (a) Every owner, occupant, tenant or lessee of a dwelling or public building used for residential, business or commercial purposes shall be required to maintain or cause to be maintained constant supervision and surveillance over the garbage receptacles and small brush on his premises. In areas where garbage or brush are collected from the street, the garbage receptacles shall be placed at the curblines no earlier than 6:00 p.m. of the date preceding that on which it is to be collected and no later than 7:00 a.m. on the day of collection, and shall be removed from the curblines no later than 10:00 a.m. on the day immediately following the day on which it is collected and such garbage receptacles shall immediately be stored behind the curblines and out of public right-of-way during non-collection times.
- (b) Large/bulky items may be placed at the curblines no earlier than two (2) days immediately preceding scheduled collection.
- (c) Large brush shall not exceed four (4) feet in length and not exceed four (4") in diameter and must be stacked at the curb in such a manner that an employee can reasonably and safely lift the material into the collection vehicle. This weekly collection specifically excludes debris resulting from the services of a Commercial Tree Service Provider. Large brush, as defined herein, may be placed at the curblines no earlier than the Saturday preceding scheduled collection.
- (d) The total amount of large/bulky items and/or large brush, or any combination thereof, placed at the curb for weekly collection shall not exceed three (3) cubic yards.

§ 19.02.008 **Charges for collection.**

All fees for residential curbside, commercial curbside, commercial dumpster service, and any additional charges related thereto shall be established by resolution of the City Council.

§ 19.02.009 **Removal from places of unusual accumulation.**

Places of unusual accumulation, such as killing and dressing plants for fowl, wholesale fruit and vegetable houses, storage and other places, where the daily accumulation of garbage, trash and rubbish is more than the ordinary quantities, are not included in the collection service furnished by the city, and the owners or operators of such places shall remove or request the contractor to remove their garbage, trash and rubbish, at their own expense as set forth in the Master Fee Schedule.

§ 19.02.010 **Disposal of dead animals.**

Heavy dead animals, such as cows, horses and mules, shall be disposed of by the owner or person having charge of the same, in the manner and by the method directed by the city manager.

§ 19.02.011 **Disposal of heavy accumulations and construction material.**

Heavy accumulations, such as brick, broken concrete, lumber, ashes, clinkers, dirt, plaster, sand, gravel, automobile frames, dead trees and other bulky, heavy material, shall be disposed of at the expense of the owner or person controlling the same, under the direction of the city manager.

§ 19.02.012 **Disposal of manure and hazardous waste oils.**

Manure from cow lots, horse stables, poultry yards and pigeon lofts and hazardous waste oils from private residences and garages or filling stations shall be disposed of at the expense of the party responsible for the same, under the direction of the city manager.

§ 19.02.013 **Littering generally.**

- (a) It shall be unlawful for any person to throw, place, sweep or otherwise deposit any garbage, trash, rubbish or refuse of any kind on or in any street, alley, sidewalk, gutter or other public place within the city.
- (b) It shall be unlawful for any person to throw or deposit any garbage, trash, rubbish or refuse of any kind on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of the property may deposit such matter in bags or containers meeting the

requirements of this article in such a manner that such matter will be prevented from being carried or deposited by the elements upon any street or sidewalk or any public place or upon any private property within the city.

- (c) It shall be unlawful for any person to throw or deposit any garbage, rubbish, trash or refuse of any kind upon any open or vacant private property within the city, whether owned by such person or not.

**§ 19.02.014 Littering in parks.**

It shall be unlawful for any person to throw or deposit any garbage, trash, rubbish or refuse of any kind in any park within the city, except in public receptacles and in such a manner that the same will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or any public place. Where public receptacles are not provided, all such matter shall be carried away from the park by the person responsible for its presence and properly disposed of.

**§ 19.02.015 Unlawful accumulations.**

- (a) It shall be unlawful for the owner or person in control of any private property to cause, suffer, or permit any such property to accumulate garbage, trash, rubbish and refuse of any kind. This section shall not prohibit the temporary storage of such matter for collection in bags or containers.
- (b) It shall be unlawful for any owner, occupant or agent of any property that abuts or joins any paved street in the city to allow or permit any garbage, trash, rubbish or refuse of any kind or description whatsoever to accumulate or remain on any part of the sidewalk abutting or adjacent to the premises owned or occupied by such person. All persons owning or occupying such property shall keep such sidewalk free of all garbage, rubbish, trash and other refuse.

**§ 19.02.016 through § 19.02.060. (Reserved)**

Division 2

**Franchise for Collection and Disposal**

**§ 19.02.061 Collection by persons other than City, franchise agreement required**

It shall be unlawful for any person to engage in the collection and disposal of solid waste, landscape waste, bulky waste, recycle materials, or commercial garbage by roll-off, front-end load, side load, stationary compactor and/or any other type of trash container disposal service within the boundaries of the City without first entering into a franchise agreement with the City for that purpose.

§ 19.02.062 **Franchise administration**

Any franchise granted pursuant to this article shall be administered by the City Manager or designee, upon such application and rules as the City may establish, including standards for performance. Such standards for performance may include, but are not necessarily restricted to, the type of vehicle to be used in collection, number of pickups per week required, method and route for transporting said collection, appropriate disposal locations, and identification of vehicles.

§ 19.02.063 **Granting of franchise**

- (a) Each person, firm or corporation desiring a franchise shall make application to the City Manager or designee to be considered for a franchise under the provisions of this section. The application shall set forth the name and address of the applicant, the trade name under which the applicant does or proposes to do business, the number of vehicles the applicant desires to operate, the standard operating procedures of the applicant, the type of service the applicant proposes to render and the experience the applicant has in rendering such service. The application shall be accompanied by an application fee of fifty dollars (\$50.00) to be paid at the time of application submittal. The franchise, if approved, shall be issued and considered granted upon payment by the applicant of the franchise fee as set forth in § 19.02.05 of this Article and execution by the applicant of a franchise agreement containing the terms and conditions set forth in § 19.02.063(e) of this Article.
- (b) After receiving a complete application, the City Manager or designee may make such investigation as he considers necessary to determine whether the applicant meets the requirements of law and of this Article. The investigation shall determine whether or not the applicant has been convicted of a violation of any law, whether or not the applicant has a claim or judgment against him for damages resulting from the negligent operation of a vehicle, and the financial responsibility and ability of the applicant, including proof of automobile and public liability insurance in amounts not less than those established as maximum recovery limits under the Texas Civil Practice and Remedies Code and worker's compensation insurance covering all employees of such franchisee engaged in any operation covered by this section. If the City Manager or designee determines, after investigation, that the applicant has been convicted of a violation of law in connection with commercial garbage and trash hauling or has a claim or judgment against him for damages resulting from the negligent operation of a vehicle engaged in commercial garbage or trash hauling or cannot provide evidence of insurance as required above, the City Manager or designee shall recommend denial of the permit application. If a recommendation is made for denial, such recommendation shall be considered by the City Council after notice and hearing to the applicant. Should there be no such grounds for denial, the City Manager or designee shall approve the application.

- (c) The City Manager or designee may require the applicant to furnish additional information to assist the City Manager or designee in his determination.
- (d) After the City Manager or designee determines whether the applicant meets the requirements of the law and this Chapter, the City Manager or designee shall either approve or recommend denial of the franchise application. If a recommendation is made for denial, such recommendation shall be considered by the City Council after notice and hearing to the applicant. Should there be no such grounds for denial, the City Manager or designee shall approve the application.
- (e) Each applicant whose franchise application is approved shall enter into a franchise agreement approved by the City Manager or designee. The franchise agreement shall grant each franchisee a franchise to use, in compliance with all City laws and regulations, the public streets, alleys, and thoroughfares within the corporate limits of the city for the purpose of engaging in the business of collecting and disposing of specified type(s) of municipal waste and shall incorporate the terms of this section and shall address at a minimum the following terms and conditions, which shall be as consistent as practicable between franchises:
  - (1) Definition of gross revenues;
  - (2) Statement that the franchise is not exclusive;
  - (3) Requirement for payment of franchise fees described in section 19.02.065 of this Article, including the amount and time of payment to the City, right of the City to inspect the franchisee's records to determine compliance, and provision for a late penalty;
  - (4) Requirements for record keeping;
  - (5) Requirements for release, indemnification and insurance;
  - (6) Provisions for default and termination, including the opportunity to cure;
  - (7) Payment of liquidated damages to the City;
  - (8) Prohibition against assignment of franchise without consent of the City; and
  - (9) Such other miscellaneous terms and conditions that the City Manager or designee determines to be necessary, appropriate and consistent with terms and conditions in other city franchises.

- (f) The City shall not grant or renew a franchise unless the City Manager or designee finds and determines that the public convenience will be served by the issuance of a franchise. The burden of proof shall be upon the applicant to establish by clear and convincing evidence that the public convenience will be served by the granting or renewal of a refuse collection franchise.
- (g) All franchises issued pursuant to the provisions of this Article shall be nontransferable. Should a franchisee violate any of the provisions of this Article or be found to have misrepresented any of the facts and statements contained in the franchise application, the City Manager or designee shall have the authority to recommend the revocation of the franchise. Such recommendation shall be forwarded to the City Council for notice and hearing before such action is taken. All franchises granted by the City Manager or designee or the City Council shall be in the possession of the person rendering such service and shall be subject to inspection at all times.

**§ 19.02.064 Exclusive and Non-exclusive Franchises.**

The city's contractor shall, through properly executed franchise agreement, have the sole and exclusive franchise, license and privilege to provide residential, commercial and industrial refuse and all municipal solid waste collection and removal throughout the city, with exception of federal facilities and the DISD. The following services are excepted from this exclusive franchise and may be performed under a properly granted non-exclusive franchise as set forth in this Article, provided a franchise agreement has been executed and appropriate franchise fee paid: any remodel, new build, demolition project or any eviction shall be permitted to obtain a roll-off container or dumpster from a private waste company provided a franchise has been granted and the appropriate fees paid as set forth herein. Further, this section further excepts and does not restrict the right of an entity to contract with a licensed waste hauler for the collection and removal of domestic septage or of grease trap waste, grit trap waste, lint trap waste, or sand trap waste. Contractors performing any of the excepted services within the city's corporate limits shall be required to have had a franchise application approved, executed a non-exclusive franchise agreement and paid the appropriate franchise fee

**§ 19.02.065 Franchise fee**

- (a) The city's contractor holding the exclusive franchise as set forth in section 19.02.064 shall pay a franchise fee in an amount set forth in the franchise agreement executed by said exclusive contractor, which franchise fee amount shall not be less than the franchise fee required for non-exclusive franchisees. For all other franchisees under this Article (non-exclusive franchisees), any franchise agreement entered into pursuant to this Article shall provide that the commercial solid waste operator shall be liable for an annual franchise fee in the amount of two thousand dollars (\$2000). The franchise agreement shall provide that the franchise fee shall be payable annually, on or before the

effective date of the operator's franchise agreement and annually on or before the anniversary date of said effective date thereafter. Any necessary prorations shall be allowed. The operator shall reflect the franchise fee as a separate line item on the invoice from the operator to the customer.

- (b) Franchise fees received more than thirty days after the date upon which the payment is due are deemed delinquent. Delinquent franchise fees shall be subject to interest at the rate of fifteen percent (15%) per annum until the delinquent franchise fees are paid in full.

**§ 19.02.066 Penalty**

- (a) Without limitation of other remedies available to the City, persons operating in violation of the terms of this Article shall be liable to the City for all fees authorized under this Article dating to the inception of such violation.
- (b) Any person who violates any provision of § 19.02.061 shall be guilty of an offense and upon conviction thereof, shall be punished by a fine of not less than \$150.00 nor more than \$500.00 for each violation.”

**SECTION 2.** All ordinances of the City of Seagoville in conflict with the provisions of this ordinance are hereby repealed and all other ordinances of the City of Seagoville not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.** All ordinances of the City of Seagoville in conflict with the provisions of this ordinance are hereby repealed and all other ordinances of the City of Seagoville not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 4.** Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 5.** Any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of

Ordinances of the City of Seagoville, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

**SECTION 6.** This ordinance shall take effect from and after its passage publication.

**DULY PASSED** by the City Council of the City of Seagoville, Texas, this the 23<sup>rd</sup> day of January 2023.

**APPROVED:**

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/s/DENNIS K. CHILDRESS, MAYOR

**ATTEST:**

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/s/KANDI JACKSON, CITY SECRETARY

**APPROVED AS TO FORM:**

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/s/VICTORIA W. THOMAS, CITY ATTORNEY  
(012023vwtTM133253)

The following definitions shall apply in the interpretation and enforcement of this article:

*Brush.* Any cuttings or trimmings from trees, shrubs, lawns, and similar materials. To be considered brush, limbs should not exceed four (4) feet in length and not exceed four (4") in diameter. No bags, bundles, or containers shall exceed forty (40) pounds in total weight. The term "Brush" specifically excludes debris resulting from services of a Commercial Service Provider.

*Cart, Poly Cart, and Wheeled-Container.* A 95-gallon plastic receptacle issued by Contractor to Residents, equipped with wheels, handles, and a tight-fitting cover, designed for automated waste collection vehicles. Separate carts are used and issued for recycling and for trash collection and disposal. The weight of a Cart and its contents shall not exceed approximately 170 lbs.

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*Dumpster.* A watertight, all metal container equipped with a tight-fitting metal or plastic cover, plugged to prevent drainage of leachate, being not less than two (2) cubic yards or more than eight (8) cubic yards in capacity and which is suitable for mechanical lifting and dumping.

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apartment in the city where persons reside, board, lodge or carry on any business or other activity, or where animal or vegetable food is prepared or served, shall cause to be provided, for each such house, building or apartment, disposable refuse bags or garbage containers meeting the requirements of this section.

- (b) Refuse bags provided under this section shall be of a type and quality approved by the city. Only such refuse bags as are manufactured for use as garbage container bags shall be approved by the city. All bags shall be sealed or tied securely.
- (c) Garbage containers provided under this section shall be watertight, of a solid and durable grade of metal or plastic. The combined weight of the garbage and the container shall not exceed one hundred seventy (170) pounds. The container must not have any inside structures, such as inside bands and reinforcing angles, or anything within the container to prevent the free discharge of its contents.

§ 19.02.004 **Deteriorated or damaged containers.**

Garbage containers that have deteriorated or that have been damaged to the extent of having jagged or sharp edges capable of causing injury to persons whose duty it is to handle the containers, or to such an extent that the covers will not fit securely, will be condemned by the city and/or contractor, and, if such containers are not replaced after notice to the owner or user of their defective condition, they shall be confiscated.

§ 19.02.005 **Storage of waste; unlawful deposit of waste in dumpster.**

- (a) All residential customers, and commercial customers who generate less than two (2) cubic yards of garbage, trash and rubbish per week, must store their garbage, trash and rubbish in bags, which are fully contained in carts, or in poly cart. Commercial customers who generate more than two (2) cubic yards of garbage, trash and rubbish per week must use dumpsters provided by the authorized contract collector for the storage of solid waste.
- (b) Customers using dumpsters are required to maintain the area around the dumpsters and to insure adequate storage space for the amount of waste normally generated by the establishment using the dumpsters by providing an adequate number and/or size, and/or collection rate, of the dumpsters made available. It shall be unlawful for any commercial customer or establishment using dumpsters to place, or cause to be placed, refuse at the side of the dumpsters for the purpose of its disposal.
- (c) Those business establishments, their agents and representatives which use a dumpster shall be deemed the sole users of said dumpster. Any person, firm or corporation found guilty of depositing brush, trash, garbage and/or rubbish into a dumpster without the permission of the sole user of said dumpster shall be guilty of a misdemeanor and subject to the fines and penalties authorized by the

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- (b) Large/bulky items may be placed at the curblines no earlier than two (2) days immediately preceding scheduled collection.
- (c) Large brush shall not exceed four (4) feet in length and not exceed four (4") in diameter and must be stacked at the curb in such a manner that an employee can reasonably and safely lift the material into the collection vehicle. This weekly collection specifically excludes debris resulting from the services of a Commercial Tree Service Provider. Large brush, as defined herein, may be placed at the curblines no earlier than the Saturday preceding scheduled collection.
- (d) The total amount of large/bulky items and/or large brush, or any combination thereof, placed at the curb for weekly collection shall not exceed three (3) cubic yards.

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All fees for residential curbside, commercial curbside, commercial dumpster service, and any additional charges related thereto shall be established by resolution of the City Council.

§ 19.02.009 **Removal from places of unusual accumulation.**

Places of unusual accumulation, such as killing and dressing plants for fowl, wholesale fruit and vegetable houses, storage and other places, where the daily accumulation of garbage, trash and rubbish is more than the ordinary quantities, are not included in the collection service furnished by the city, and the owners or operators of such places shall remove or request the contractor to remove their garbage, trash and rubbish, at their own expense as set forth in the Master Fee Schedule.

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Heavy dead animals, such as cows, horses and mules, shall be disposed of by the owner or person having charge of the same, in the manner and by the method directed by the city manager.

§ 19.02.011 **Disposal of heavy accumulations and construction material.**

Heavy accumulations, such as brick, broken concrete, lumber, ashes, clinkers, dirt, plaster, sand, gravel, automobile frames, dead trees and other bulky, heavy material, shall be disposed of at the expense of the owner or person controlling the same, under the direction of the city manager.

§ 19.02.012 **Disposal of manure and hazardous waste oils.**

Manure from cow lots, horse stables, poultry yards and pigeon lofts and hazardous waste oils from private residences and garages or filling stations shall be disposed of at the expense of the party responsible for the same, under the direction of the city manager.

§ 19.02.013 **Littering generally.**

- (a) It shall be unlawful for any person to throw, place, sweep or otherwise deposit any garbage, trash, rubbish or refuse of any kind on or in any street, alley, sidewalk, gutter or other public place within the city.
- (b) It shall be unlawful for any person to throw or deposit any garbage, trash, rubbish or refuse of any kind on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of the property may deposit such matter in bags or containers meeting the

requirements of this article in such a manner that such matter will be prevented from being carried or deposited by the elements upon any street or sidewalk or any public place or upon any private property within the city.

- (c) It shall be unlawful for any person to throw or deposit any garbage, rubbish, trash or refuse of any kind upon any open or vacant private property within the city, whether owned by such person or not.

**§ 19.02.014 Littering in parks.**

It shall be unlawful for any person to throw or deposit any garbage, trash, rubbish or refuse of any kind in any park within the city, except in public receptacles and in such a manner that the same will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or any public place. Where public receptacles are not provided, all such matter shall be carried away from the park by the person responsible for its presence and properly disposed of.

**§ 19.02.015 Unlawful accumulations.**

- (a) It shall be unlawful for the owner or person in control of any private property to cause, suffer, or permit any such property to accumulate garbage, trash, rubbish and refuse of any kind. This section shall not prohibit the temporary storage of such matter for collection in bags or containers.
- (b) It shall be unlawful for any owner, occupant or agent of any property that abuts or joins any paved street in the city to allow or permit any garbage, trash, rubbish or refuse of any kind or description whatsoever to accumulate or remain on any part of the sidewalk abutting or adjacent to the premises owned or occupied by such person. All persons owning or occupying such property shall keep such sidewalk free of all garbage, rubbish, trash and other refuse.

**§ 19.02.016 through § 19.02.060. (Reserved)**

Division 2

**Franchise for Collection and Disposal**

**§ 19.02.061 Collection by persons other than City, franchise agreement required**

It shall be unlawful for any person to engage in the collection and disposal of solid waste, landscape waste, bulky waste, recycle materials, or commercial garbage by roll-off, front-end load, side load, stationary compactor and/or any other type of trash container disposal service within the boundaries of the City without first entering into a franchise agreement with the City for that purpose.

§ 19.02.062 **Franchise administration**

Any franchise granted pursuant to this article shall be administered by the City Manager or designee, upon such application and rules as the City may establish, including standards for performance. Such standards for performance may include, but are not necessarily restricted to, the type of vehicle to be used in collection, number of pickups per week required, method and route for transporting said collection, appropriate disposal locations, and identification of vehicles.

§ 19.02.063 **Granting of franchise**

- (a) Each person, firm or corporation desiring a franchise shall make application to the City Manager or designee to be considered for a franchise under the provisions of this section. The application shall set forth the name and address of the applicant, the trade name under which the applicant does or proposes to do business, the number of vehicles the applicant desires to operate, the standard operating procedures of the applicant, the type of service the applicant proposes to render and the experience the applicant has in rendering such service. The application shall be accompanied by an application fee of fifty dollars (\$50.00) to be paid at the time of application submittal. The franchise, if approved, shall be issued and considered granted upon payment by the applicant of the franchise fee as set forth in § 19.02.05 of this Article and execution by the applicant of a franchise agreement containing the terms and conditions set forth in § 19.02.063(e) of this Article.
- (b) After receiving a complete application, the City Manager or designee may make such investigation as he considers necessary to determine whether the applicant meets the requirements of law and of this Article. The investigation shall determine whether or not the applicant has been convicted of a violation of any law, whether or not the applicant has a claim or judgment against him for damages resulting from the negligent operation of a vehicle, and the financial responsibility and ability of the applicant, including proof of automobile and public liability insurance in amounts not less than those established as maximum recovery limits under the Texas Civil Practice and Remedies Code and worker's compensation insurance covering all employees of such franchisee engaged in any operation covered by this section. If the City Manager or designee determines, after investigation, that the applicant has been convicted of a violation of law in connection with commercial garbage and trash hauling or has a claim or judgment against him for damages resulting from the negligent operation of a vehicle engaged in commercial garbage or trash hauling or cannot provide evidence of insurance as required above, the City Manager or designee shall recommend denial of the permit application. If a recommendation is made for denial, such recommendation shall be considered by the City Council after notice and hearing to the applicant. Should there be no such grounds for denial, the City Manager or designee shall approve the application.

- (c) The City Manager or designee may require the applicant to furnish additional information to assist the City Manager or designee in his determination.
- (d) After the City Manager or designee determines whether the applicant meets the requirements of the law and this Chapter, the City Manager or designee shall either approve or recommend denial of the franchise application. If a recommendation is made for denial, such recommendation shall be considered by the City Council after notice and hearing to the applicant. Should there be no such grounds for denial, the City Manager or designee shall approve the application.
- (e) Each applicant whose franchise application is approved shall enter into a franchise agreement approved by the City Manager or designee. The franchise agreement shall grant each franchisee a franchise to use, in compliance with all City laws and regulations, the public streets, alleys, and thoroughfares within the corporate limits of the city for the purpose of engaging in the business of collecting and disposing of specified type(s) of municipal waste and shall incorporate the terms of this section and shall address at a minimum the following terms and conditions, which shall be as consistent as practicable between franchises:
  - (1) Definition of gross revenues;
  - (2) Statement that the franchise is not exclusive;
  - (3) Requirement for payment of franchise fees described in section 19.02.065 of this Article, including the amount and time of payment to the City, right of the City to inspect the franchisee's records to determine compliance, and provision for a late penalty;
  - (4) Requirements for record keeping;
  - (5) Requirements for release, indemnification and insurance;
  - (6) Provisions for default and termination, including the opportunity to cure;
  - (7) Payment of liquidated damages to the City;
  - (8) Prohibition against assignment of franchise without consent of the City; and
  - (9) Such other miscellaneous terms and conditions that the City Manager or designee determines to be necessary, appropriate and consistent with terms and conditions in other city franchises.

- (f) The City shall not grant or renew a franchise unless the City Manager or designee finds and determines that the public convenience will be served by the issuance of a franchise. The burden of proof shall be upon the applicant to establish by clear and convincing evidence that the public convenience will be served by the granting or renewal of a refuse collection franchise.
- (g) All franchises issued pursuant to the provisions of this Article shall be nontransferable. Should a franchisee violate any of the provisions of this Article or be found to have misrepresented any of the facts and statements contained in the franchise application, the City Manager or designee shall have the authority to recommend the revocation of the franchise. Such recommendation shall be forwarded to the City Council for notice and hearing before such action is taken. All franchises granted by the City Manager or designee or the City Council shall be in the possession of the person rendering such service and shall be subject to inspection at all times.

**§ 19.02.064 Exclusive and Non-exclusive Franchises.**

The city's contractor shall, through properly executed franchise agreement, have the sole and exclusive franchise, license and privilege to provide residential, commercial and industrial refuse and all municipal solid waste collection and removal throughout the city, with exception of federal facilities and the DISD. The following services are excepted from this exclusive franchise and may be performed under a properly granted non-exclusive franchise as set forth in this Article, provided a franchise agreement has been executed and appropriate franchise fee paid: any remodel, new build, demolition project or any eviction shall be permitted to obtain a roll-off container or dumpster from a private waste company provided a franchise has been granted and the appropriate fees paid as set forth herein. Further, this section further excepts and does not restrict the right of an entity to contract with a licensed waste hauler for the collection and removal of domestic septage or of grease trap waste, grit trap waste, lint trap waste, or sand trap waste. Contractors performing any of the excepted services within the city's corporate limits shall be required to have had a franchise application approved, executed a non-exclusive franchise agreement and paid the appropriate franchise fee

**§ 19.02.065 Franchise fee**

- (a) The city's contractor holding the exclusive franchise as set forth in section 19.02.064 shall pay a franchise fee in an amount set forth in the franchise agreement executed by said exclusive contractor, which franchise fee amount shall not be less than the franchise fee required for non-exclusive franchisees. For all other franchisees under this Article (non-exclusive franchisees), any franchise agreement entered into pursuant to this Article shall provide that the commercial solid waste operator shall be liable for an annual franchise fee in the amount of two thousand dollars (\$2000). The franchise agreement shall provide that the franchise fee shall be payable annually, on or before the

effective date of the operator's franchise agreement and annually on or before the anniversary date of said effective date thereafter. Any necessary prorations shall be allowed. The operator shall reflect the franchise fee as a separate line item on the invoice from the operator to the customer.

- (b) Franchise fees received more than thirty days after the date upon which the payment is due are deemed delinquent. Delinquent franchise fees shall be subject to interest at the rate of fifteen percent (15%) per annum until the delinquent franchise fees are paid in full.

**§ 19.02.066 Penalty**

- (a) Without limitation of other remedies available to the City, persons operating in violation of the terms of this Article shall be liable to the City for all fees authorized under this Article dating to the inception of such violation.
- (b) Any person who violates any provision of § 19.02.061 shall be guilty of an offense and upon conviction thereof, shall be punished by a fine of not less than \$150.00 nor more than \$500.00 for each violation.”

**SECTION 2.** All ordinances of the City of Seagoville in conflict with the provisions of this ordinance are hereby repealed and all other ordinances of the City of Seagoville not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.** All ordinances of the City of Seagoville in conflict with the provisions of this ordinance are hereby repealed and all other ordinances of the City of Seagoville not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 4.** Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 5.** Any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of

Ordinances of the City of Seagoville, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

**SECTION 6.** This ordinance shall take effect from and after its passage publication.

**DULY PASSED** by the City Council of the City of Seagoville, Texas, this the 23<sup>rd</sup> day of January 2023.

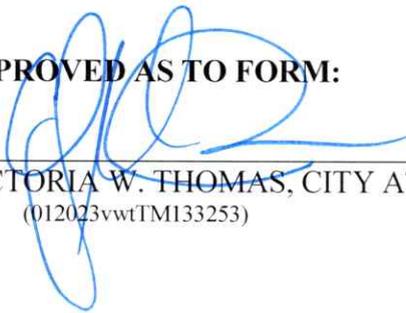
**APPROVED:**

  
\_\_\_\_\_  
DENNIS K. CHILDRESS, MAYOR

**ATTEST:**

  
\_\_\_\_\_  
KANDI JACKSON, CITY SECRETARY

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
VICTORIA W. THOMAS, CITY ATTORNEY  
(012023vwtTMI33253)

