

**ORDINANCE NO. 181-9**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING CHAPTER 12, *SOLID WASTE*, OF THE CITY OF PEARLAND CODE OF ORDINANCES, PROVIDING A PENALTY FOR VIOLATION; HAVING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND A REPEALER CLAUSE; PROVIDING FOR CODIFICATION AND AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That Chapter 12, *SOLID WASTE*, of the City of Pearland Code of Ordinances, is hereby amended to read as follows:

**“Chapter 12**

**SOLID WASTE**

**Subchapter 1. In General.**

**Section 1-1. Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (a) *Commercial customer* means a person, business, corporation, institution or other entity which accumulates or holds solid waste for collection at a location other than single family residences, duplexes, triplexes or quadplexes.
- (b) *Construction debris* means refuse items such as dirt, concrete, rocks, boards, metal or other hard dry substances and other such items not defined as solid waste.
- (c) *Green waste* means such items as grass clippings, weeds, leaves, tree limbs and branches, shrubs, and any other plant waste matter.
- (d) *Household hazardous waste* means any solid waste identified or listed as a solid waste by the administrator of the U. S. Environmental Protection Agency pursuant to federal law. Hazardous waste includes but is not limited to pool chemicals, corrosive solvents, oil, batteries, and paint.
- (e) *Recyclable materials* means discarded materials which have been separated from other solid waste materials and placed at a designated location for the purpose of collection and recycling. These materials include but are not limited to newspapers,

magazines, aluminum and steel cans, glass containers, polyethylene plastics and such other items as may be designated recyclable by the City of Pearland.

- (f) *Residential customer* means an owner, occupant, tenant, lessee or resident, that receives solid waste collection service at single family residences, duplexes, triplexes or quadplexes.
- (g) *Solid waste* means any and all garbage, trash, refuse and other discarded materials held or accumulated in containers, including without limitation, animal and waste materials resulting from the preparation, processing or consumption of food; combustible waste materials such as paper, rags, cartons, boxes, plastics; noncombustible materials such as glass, crockery and metal cans. Solid waste shall not include hazardous or special waste.
- (h) *Special waste* means any substance identified or listed as special waste from healthcare related facilities in the Texas Administrative Code. Special waste includes, but is not limited to, health care facility waste, human body parts, human body fluids, hypodermic syringes/needles and other such items that may be a threat to public health.

#### **Section 1-2. Littering.**

- (a) It shall be unlawful for any person to throw, drop, cast or deposit on any street, alley, sidewalk or any yard or premises, whether public or private, any waste material of any kind, including without limitation cigarette butts, cans, paper, paper containers, bottles or any other form of waste matter, whether solid, hazardous, or special.
- (b) An offense under this section shall be punishable by a fine of not less than \$100.00 and not more than \$500.00 for each violation.

#### **Section 1-3. Dumping.**

- (a) It shall be unlawful for any person, by his own action or that of his agent, employee or any person under his control, to cause any garbage, trash, refuse or other waste matter to be dumped, deposited or otherwise discharged or disposed of on any street, lot, park, public place or other area whether publicly or privately owned, except at legally established dumping areas. Waste matter includes, but is not limited to, tires, household furnishings, mattresses, appliances, household hazardous waste, vehicle parts, construction debris, solid waste, special waste, green waste or any other organic or inorganic waste materials.
- (b) An offense under this section shall be punishable by a fine of not less than \$500.00 and not more than \$2000.00 for each violation.

**Section 1-4. Special waste.**

Special waste shall be disposed of pursuant to state law and shall not be placed in any collection container or concealed by any means for collection.

**Section 1-5. Household hazardous waste.**

Household hazardous waste shall not be placed in any collection container or concealed by any means for collection.

**Section 1-6. Green waste.**

Landscape waste and lawn clippings may be accumulated and placed in clear plastic bags for collection and recycling. Tree trimmings, brush and shrubs placed for collection shall be secured in bundles not to exceed four feet in length, eighteen inches in diameter, or fifty pounds in weight.

**Section 1-7. Dead animals.**

Dead animals exceeding five pounds in weight shall not be placed in solid waste containers. Upon request the City will pick up and dispose of dead animals weighing from five pounds to one hundred pounds. The city will not be responsible for the disposal of any dead animal weighing over one hundred pounds.

**Section 1-8. Construction debris.**

The City will not be responsible for the collection of debris from new construction, whether from commercial or residential construction, or trees, brush and other debris from the clearing of land or construction cleanup.

**Section 1-9. Penalty.**

Violation of a provision of this chapter for which a penalty is not provided shall be punishable by a fine not to exceed two thousand dollars (\$2000.00). Each day that a specific violation continues shall be deemed a separate offense.

**Section 1-10. Culpable mental state.**

It is the express intention of the City Council of the City of Pearland to dispense with the requirement of proof of a culpable mental state in the prosecution for the violation of any section in this chapter, unless said section expressly requires a culpable mental state.

## **Subchapter 2. Residential Collection.**

### **Section 2-1. Waste collection.**

The City of Pearland shall provide collection service for residential solid waste twice a week, and for green waste meant for recycling and recyclable materials once a week, except when a collection day falls on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day, when there will be no collection. Placement of waste for collection shall be at the edge of that portion of the right-of-way that abuts the residential property. A residential customer shall not place waste for collection before 5:00 p.m. on the day prior to collection day, nor shall the customer allow the waste to remain at the edge of the right-of-way after collection day. Storage of all waste shall be behind the building line.

### **Section 2-2. Waste containers.**

Solid waste placed at curbside for collection shall be contained in plastic bags or other sealed disposable containers. No containers intended to be emptied and returned for reuse, such as trash cans, shall be allowed.

### **Section 2-3. Preparation for collection.**

All solid waste containing water or other liquid shall be drained before being placed for collection. All animal matter subject to decomposition shall be securely wrapped before being placed for collection. No single container of trash or bundle of waste materials shall exceed fifty pounds in weight.

### **Section 2-4. Recycling.**

The City of Pearland shall make recycling containers available to each residential customer for the purpose of separating and storing recyclable materials for collection. Recyclable materials will be collected on one of the two trash collection days of each week as long as they are placed on the curbside in a recycling container. The residential customer shall return the recycling container to a storage area behind the building line on the same day. All recyclable materials placed on the curbside for collection become the property of the City of Pearland when so placed.

### **Subchapter 3. Commercial Collection.**

#### **Section 3-1. Containers.**

All commercial customers shall utilize dumpsters to store solid waste for collection unless other containers are specifically allowed by the City. A commercial customer authorized to use alternate containers shall not place such containers for collection before 6:00 p.m. on the day prior to collection day, nor shall the customer allow the containers to remain at the edge of the right-of-way after collection day. Alternate containers shall be stored at a location on the premises of the commercial customer that is screened such that said containers are not visible from any roadway.

#### **Section 3-2. Industrial waste owner's responsibility.**

Industrial wastes resulting from manufacturing or commercial processing operations, such as produce houses, poultry establishments, and meat processing and packing plants, will not be collected by the city. The owner or occupant of the building, business or premises from which the wastes originate is responsible for proper disposal in accordance with all applicable federal, state and local regulations.

#### **Section 3-3. Owner diligence.**

The owner or occupant of any business, commercial establishment or institution within the City shall exercise reasonable diligence to keep the premises clear of solid waste in any form deposited by patrons and other persons using the premises. Accessible receptacles shall be placed in view on the premises for disposal of solid waste.

### **Subchapter 4. Rates, Fees, and License.**

#### **Section 4-1. Residential rates.**

The rates for the collection and disposal of solid waste from residential customers shall be determined from time to time by the City Council and charged on the monthly water bill. Said rate schedules shall be maintained in the City Secretary's office.

#### **Section 4-2. Commercial rates.**

The rates for collection and disposal of solid waste from commercial customers shall be determined from time to time by the City Council and charged on the monthly water bill or directly to the commercial customer. Said rate schedules shall be maintained in the City Secretary's office.

#### **Section 4-3. License and insurance required.**

Private haulers of solid waste for hire using the public streets, alleys and easements of the

City must obtain a franchise from the City.

(a) Application for a franchise shall include:

- (1) the applicant's name and physical business address,
- (2) proof of liability insurance or bonding with coverage of at least \$1,000,000.00 per accident and \$300,000.00 per person, and
- (3) a non-refundable application fee of \$50.00.

(b) The failure of a licensed solid waste hauler to maintain insurance or bonding in the above amounts shall result in suspension of the license by the city manager. A licensee has the right to appeal said suspension to the City Council.”

**Section 2. Savings.** All rights and remedies which have accrued in favor of the City under this Ordinance and amendments thereto shall be and are preserved for the benefit of the City.

**Section 3. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.


**Section 4. Repealer.** All ordinances and parts of ordinances in conflict herewith are hereby repealed but only to the extent of such conflict.

**Section 5. Codification.** It is the intent of the City Council of the City of Pearland, Texas, that the provisions of this Ordinance shall be codified in the City's official Code of Ordinances as provided hereinabove.

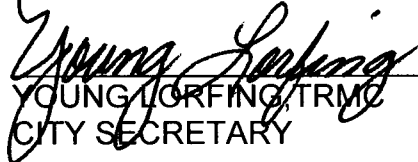
**Section 6. Effective Date.** The City Secretary shall cause this Ordinance, or its caption, to be published in the official newspaper of the City of Pearland, upon passage of

such Ordinance. The Ordinance shall then become effective ten (10) days from and after its publication, or the publication of its caption, in the official City newspaper.

PASSED and APPROVED ON FIRST READING this the 12<sup>th</sup> day of October, A. D., 2009.


  
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TOM REID  
MAYOR

ATTEST:

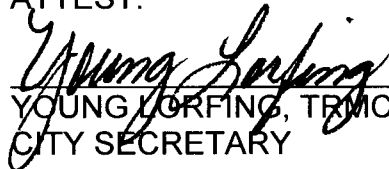
  
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YOUNG LORFING, TRMC  
CITY SECRETARY



PASSED and APPROVED ON SECOND AND FINAL READING this the 26<sup>th</sup> day of October, A. D., 2009.

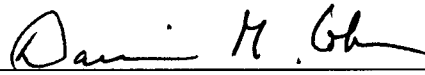
  
\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

  
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YOUNG LORFING, TRMC  
CITY SECRETARY



APPROVED AS TO FORM:

  
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DARRIN M. COKER  
CITY ATTORNEY