

ORDINANCE NO.

531

AN ORDINANCE OF THE CITY OF BEE CAVE, TEXAS, AMENDING THE CITY OF BEE CAVE, TEXAS CODE OF ORDINANCES TITLE I GENERAL ORDINANCE, ARTICLE 20.02 SOLID WASTE, ADDING PROVISIONS FOR UNIFORM COLLECTION OF RESIDENTIAL AND COMMERCIAL SOLID WASTE; PROVIDING FOR A PENALTY FOR A VIOLATION AS A CLASS C MISDEMEANOR AND A FINE IN AN AMOUNT NOT TO EXCEED \$2000.00; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council finds the City of Bee Cave (hereinafter called “the City”) is a Texas Home-Rule Municipality and that the City has the exclusive control over and under the public highways, streets, and alleys within the City, as established by Texas Transportation Code, Section 311.001;

WHEREAS, the City Council finds that providing for the uniform solid waste collection practices will protect the health and safety of residents of the City and allow for the efficient operation of the governmental function of solid waste collection and disposal; and

WHEREAS, the City Council finds that it has the authority to establish uniform standards for solid waste collection under Texas law.

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Amendment to Municipal Code of Ordinances. The City of Bee Cave, Texas Code of Ordinances, Title I (“*General Ordinances*”), Article 20.02 (“*Solid Waste*”), is hereby amended by deleting section 20.02.001 and adding the following divisions and sections:

Division 1: Generally

§ 20.02.101. Definitions.

For purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Bags. Plastic or Paper sacks designed to store Garbage, Refuse, Rubbish, and/or Yard Waste with sufficient wall strength to maintain physical integrity when lifted by the top.

Bulky waste. Stoves, refrigerators (free of CFCs), water tanks, washing machines, furniture and other residential waste materials other than construction debris, dead animals, hazardous waste or stable matter. No individual bulky waste item shall exceed one hundred (100) pounds in weight.

Bundle. Tree, shrub and brush trimmings or newspaper and magazines securely tied together, forming an easily handled package not exceeding four (4) feet in length, three (3) inches in diameter, or thirty-five (35) pounds in weight. Limbs within the bundle must be no more than four (4) inches in diameter.

Cart. A portable, watertight container for residential refuse with a capacity of greater than 20

gallons but less than or equal to 95 gallons constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tightfitting lid capable of preventing entrance into the container by vectors. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed 100 pounds.

Commercial and industrial unit. Any premises, location or entity, public or private, requiring frequent refuse collection within the corporate limits of the city and not a residential unit.

Commercial bin. A metal receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units or multifamily complexes.

Commercial hauler. A person in the business of collecting and transporting solid waste.

Construction debris. Waste resulting from construction or demolition activities or that is directly or indirectly the byproduct of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood products. Construction debris does not include hazardous waste, residential refuse, or bulky waste.

Dead animals. Animals or portions thereof equal to or less than ten pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

Garbage. Any and all dead animals, except those slaughtered for human consumption, and every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers, and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of "bulky waste," "construction debris," "dead animals," "hazardous waste," "rubbish," or "stable matter."

Hazardous waste. Materials, in any amount, which are defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law. For purposes of this article, the term "hazardous waste" shall also include motor oil, gasoline, paint and paint cans.

Person. Any individual, partnership, company, corporation, association, firm, cooperative, resident, or any other entity public or private.

Premises. Any apartment, business, industrial or institutional building or residence where persons work or reside, where animal or vegetable food is prepared or served, or solid waste accumulates or occurs.

Producer. An occupant of a commercial and industrial unit, institution, construction site, or residential unit who generates refuse.

Recyclable material.

- (1) Corrugated cardboard, boxboard containers, food boxes (such as dry food boxes and frozen food containers), soda and beverage boxes and carriers, shoe boxes, newspapers (including slick paper inserts), magazines, catalogs, telephone books., wrapping paper, sticky notes, paperback books, paper bags, Kraft paper, chipboard, junk mail, junk mail inserts, residential mixed paper, high-grade paper, white and colored ledger, copier paper, office paper, laser printer paper, computer paper (including continuous-formed, perforated white bond or green bar paper), book paper, cotton fiber content paper, duplicator paper, form bond, paper envelopes, facsimile paper, manila folders;
- (2) Plastic containers: #1-#7 (excluding plastic bags and expanded polystyrene), such as bottles, cups, jugs, bowls, plastic eating utensils, other rigid plastics such as buckets,

baskets, carriers, crates, toys (free of metal), laundry baskets, lawn furniture, pots and trays, dish drainers, trash cans, metal beverage containers, food cans, durable baking tins, metal and bi-metal containers with or without paper labels, rings and caps or lids;

- (3) Glass (including bottles and jars with paper labels, rings and caps or lids), excludes window glass, Pyrex, porcelain, china, ceramics, and light bulbs;
- (4) Other recyclable items of a similar nature.

Recycling cart. A container designed for the curbside collection of recyclable materials constructed of heavy-duty plastic, with attached lid and wheels.

Residential customer. A producer who generates residential refuse at a residential unit within the corporate limits of the city.

Residential refuse. All garbage and rubbish generated by a producer by a Residential customer.

Residential unit. A dwelling occupied by a person or group of persons comprising not more than four families. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A townhouse, fourplex, duplex or condominium dwelling, whether single- or multi-level construction, consisting of four or less contiguous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any such residential unit shall be billed separately as a residential unit. Those residential units served by a commercial bin shall not be included in this definition.

Rubbish. All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any other waste materials not included in the definition of "bulky waste," "construction debris," "dead animals," "garbage," "hazardous waste," or "stable matter."

Solid waste. Any garbage, refuse, rubbish, bulky waste, yard waste, construction debris, dead animals, hazardous waste or stable matter or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, automobile, or agricultural operations.

Stable matter. All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from keeping of animals, poultry or livestock.

Yard waste. All grass clippings and tree, shrub, or brush trimmings.

§ 20.02.102. Interpretation.

When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The use of any gender shall be applicable to all genders wherever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. The use of captions or headings for the various sections of this article is for convenience only.

§ 20.02.103. Penalty.

Any person found to be in violation of any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed two thousand dollars

(\$2,000.00). Each day of such violation shall constitute a separate offense. Such penalty shall be cumulative and not exclusive of any other rights or remedies the city may have.

§ 20.02.104. Enforcement.

Police and code enforcement personnel of the city are authorized to enforce all non-administrative sections of this article.

§ 20.02.105. Unlawful conduct.

It shall be unlawful for any person in possession or control of any premises located within the city, or any commercial hauler, to cause, allow or permit any person to:

- (1) Pour liquid over solid waste or into any refuse cart.
- (2) Deposit any dangerous or hazardous substance into any refuse cart not approved for that purpose.
- (3) Remove the cover from any refuse cart, except when depositing or removing the contents, or in any manner interfering with the cart or the contents thereof.
- (4) Place a dead animal weighing more than ten (10) pounds into any refuse cart.
- (5) Throw or scatter solid waste onto any premises, vacant lot, public street, alley, or sidewalk.
- (6) Engage in outdoor burning, dumping, accumulating, or burying of any waste, garbage, leaves, paper, lumber, shavings, or domestic, commercial or construction combustible waste materials of any kind, except as may be specifically authorized by the city for emergency training exercises.
- (7) Dispose of any solid waste into a trash cart belonging to or under the control of another person, or place any solid waste material on the premises or at the curbside of another person, or remove or carry away any solid waste from premises other than one's own without having first obtained a permission from the city.
- (8) Deposit household solid waste in any public commercial bin, such as in a public park or municipal building, or other receptacle located on a sidewalk, or at any other location maintained for disposal of litter by pedestrians.

Division 2: Residential Collection

§ 20.02.201. Duties of residential customers.

- (a) Each residential customer within the corporate limits of the city shall:
 - (1) Use cart provided by the city approved Commercial Hauler to accommodate and securely keep all residential refuse that may accumulate upon such premises. Items too large to fit into carts, such as appliances, furniture and mattresses, shall be stored securely in a screened area of the premises and placed at curbside only on the day scheduled for such removal.
 - (2) Bundle tree trimmings or limbs in lengths not exceeding four feet. Such trimmings or limbs shall not exceed four inches in diameter, and such bundle shall not exceed four feet in height and width. Place grass clippings in secure paper bags not to

exceed 35 pounds.

- (3) Maintain and keep carts in a screened location and in such a manner on the premises so as not to constitute a public nuisance, give an undesirable appearance, or be visible from the street.
 - (4) Place trash and recycling carts and bundles at the edge of such premises adjacent to the street as early as 6:00 p.m. the evening before the scheduled service day but not later than 8:00 a.m. on the day of collection, and return same to their respective locations, which shall be screened from visibility from a public roadway, after pick-up on the same day of collection.
 - (5) Eliminate water and liquids to the extent practicable from all residential refuse prior to storing in carts.
 - (6) Maintain all carts in a condition free of defects that likely could hamper collection or injure the person collecting the contents thereof or the public generally.
 - (7) Promptly clean up any solid waste which becomes scattered by whatever means upon such premises.
- (b) Within 90 days of annexation into the city limits, a residential customer shall terminate its existing contract for Solid Waste services with its current Commercial Hauler and contract such services with the city's approved Commercial Hauler.

§ 20.02.202. Residential collection service and limitations.

- (a) Each residential customer is entitled to place at curbside on the once-weekly scheduled pick-up day residential refuse in carts, bags, and bundles with the following limitations:
 - (1) Either one or two standard trash Carts;
 - (2) Either one or two standard recycling Carts;
 - (3) No Cart placed for collection by a residential customer shall exceed 100 pounds; and
 - (4) Up to three (3) total of the following, in any combination: a 30-gallon plastic Bag containing Garbage, Refuse, and/or Rubbish placed outside the Cart; a paper Bag of Yard Waste placed outside the Cart; a bundle of Yard Waste tied into four (4) foot lengths, not to exceed 35 pounds per bundle, placed outside the Cart. Limbs within the bundle must be no more than four (4) inches in diameter.
- (b) Pursuant to the pick-up schedule established by the Commercial Hauler, once every other week, each residential customer is entitled to place at curbside an unlimited amount of Yard Waste in paper Bags.
- (c) In addition, each residential customer under this section is entitled to Bulky Waste pick-up no more than twelve (12) times per year by calling the telephone number prescribed on the bill to request such service.

Division 3: Commercial Haulers

§ 20.02.301. Franchise Agreement Required.

- (a) It shall be an offense for any Commercial Hauler to operate residential collection services within the city limits without a current franchise agreement with the City.

- (b) It shall be an offense for any Commercial Hauler to charge rates in excess of those established in a currently effective franchise agreement with the City.
- (c) It shall be an offense for any Commercial Hauler to provide residential collection services in a manner not consistent with the routes and schedules set forth in the collection plan approved by the City Manager in accordance with a currently effective franchise agreement with the City.
- (d) In consideration of the right to use City streets and other public rights of way in the conduct of its business, any Commercial Hauler shall pay to the City a franchise fee not less than 5% of gross revenue derived from customers within the City limits.

§ 20.02.302. Franchise Agreement Supersedes prior collection agreements.

Upon execution of a franchise agreement with the City, any commercial hauler shall make commercially reasonable efforts to terminate any existing solid waste collection agreements within the City. To the extent permitted by state law, any such existing solid waste collection agreement is superseded by the execution of a franchise agreement with the City.

§ 20.02.303 Days and times of collection.

- (a) Restrictions for commercial establishments. Any Commercial Hauler operating within the corporate limits of the city shall only collect garbage and recyclable material from commercial and industrial units between the hours of 7:00 a.m. and 10:00 p.m. Monday through Friday, and between the hours of 9:00 a.m. and 10:00 p.m. Saturday and Sunday, regardless of the method of collection.
- (b) Restrictions for residential units. Any Commercial Hauler operating within the corporate limits of the city shall only collect garbage and recyclable material from residential units between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday, regardless of the method of collection.

Section 3. Violation. A violation of these provisions of the Code of Ordinances shall be a misdemeanor and shall, upon conviction, be fined an amount in accordance with the City's Code of Ordinances, as amended herein.

Section 4. Cumulative. This Ordinance shall be cumulative of all other ordinances of the City, and this Ordinance shall not operate to repeal or affect any other ordinances of the City except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed. This Ordinance shall not be construed to require or allow any act which is prohibited by state law.

Section 5. Severability. If any provision, section, sentence, clauses or phrase of this Ordinance or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this Ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

Section 6. Effective Date. This ordinance shall be in full force and effect upon and after July 1,

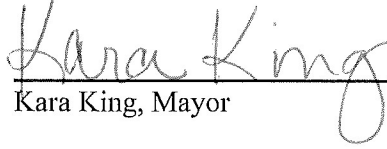
2024, and publication in accordance with Section 10.02 of the City Charter.

Section 7. Proper Notice and Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

APPROVED AND ADOPTED this 9th day of April 2024.

CITY OF BEE CAVE, TEXAS

By:

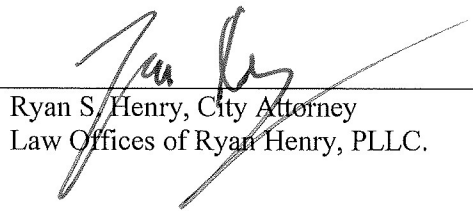

Kara King, Mayor

ATTEST:



Thomas Hatfield, Interim City Secretary

APPROVED AS TO FORM:


Ryan S. Henry, City Attorney
Law Offices of Ryan Henry, PLLC.