

ORDINANCE NO. 10-2007

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE REPLACING CHAPTER 27, "REFUSE", IN ITS ENTIRETY AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, there is a need to protect the health, safety, and welfare of the citizens of the City of Abilene; and

WHEREAS, the current provisions of Chapter 27, "Refuse", are no longer adequate to meet the needs of the community; and

WHEREAS, it is necessary for enforcement of Chapter 19, "Nuisances and Illegal Dumping", to clarify the responsibilities of the citizens as they relate to solid waste disposal;

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

- PART 1:** That Chapter 27, "Refuse" of the Code of Ordinances, City of Abilene, Texas, is hereby replaced as set out in Exhibit A, attached and made a part of this ordinance for all purposes.
- PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.
- PART 4:** Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 8th day of February, 2007.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily

newspaper of general circulation in the City of Abilene, said publication being on 14th day of February, 2007, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 22nd day of February, 2007, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

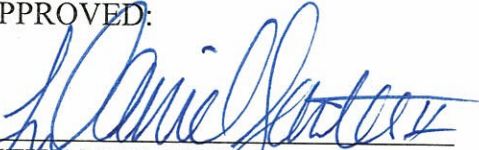
PASSED ON SECOND AND FINAL READING this 22nd day of February, 2007.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:


CITY ATTORNEY

ORDINANCE NO. 10-2007

EXHIBIT A

Replace CHAPTER 27, "REFUSE" in its entirety with the following:

CHAPTER 27

SOLID WASTE

Art. I.	In General	§§27-1 - 27-10
Art. II.	Responsibilities	§§27-11 - 27-20
Art. III.	Collection	§§27-21 - 27-25
Art. IV.	Prohibitions	§§27-26 - 27-30
Art. V.	Enforcement	§§27-31 - 27-50

ARTICLE I. IN GENERAL

Sec. 27-1. Purpose and Intent.

The purpose of this Ordinance is to protect the public health, safety, environment and general welfare of the citizens of the City of Abilene (City) through the regulation of solid waste collection and disposal.

Sec. 27-2. Rates.

Residential and commercial rates are set by City Council resolution and found in the "Schedule of Rates and Charges" for the Solid Waste Services Division and kept on file in both the City Secretary's office and the Solid Waste Services Division.

Sec. 27-3. Fee, deposits, and bills.

- (a) Fees for removal of collectible solid waste shall be billed to each occupant liable therefore with the water utility bill or refuse-only bill. Solid waste collection charges shall become due and payable as established by the Solid Waste Division and the Water Utilities Division.
- (b) Fees for water services shall not be accepted without payment of the fees for the removal of solid waste.
- (c) No customer shall be allowed to re-establish delinquent service with the City until all City utilities are paid current and a deposit for two months' service has been collected.

- (d) Amounts and procedures to be followed regarding fees, deposits, and bills shall be set by the City Council in a "Schedule of Rates and Charges" for the Solid Waste Services Division and kept on file the Solid Waste Services office and the City Secretary's office.

Sec. 27-4. Billing; Disconnection of water for failure to pay bill.

- (a) Charges for services under this Chapter for the collection, removal, and disposal of all solid waste shall be entered in their respective amounts as charges against each occupant, and the amount so fixed and charged shall be collected monthly in connection with and as a part of the utility bill of the City and/or invoiced monthly if not billed through the City water billing system.
- (b) Failure to pay fixed charges when due may result in the disconnection of water utility service.
- (c) The fees shall accrue monthly and shall be paid to the Water Utility Office.

Sec. 27-5. Definitions.

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

Administrator. The Solid Waste Service Manager, City of Abilene Peace Officers and Firefighters, Code Enforcement Officers, Environmental Enforcement Officers, Public Health Authority or designee, or City Manager or designee who administer, implement, and enforce the provisions of this Chapter.

Bulky waste. Includes but is not limited to discarded large and small household appliances, furniture, carpets, mattresses, crates, air conditioners, auto parts weighing more than five pounds, mufflers, hot water heaters, large tree limbs, stumps or trunks, heavy pipes or metals, fencing or fence posts, lumber greater than sixteen inches in any one dimension, small non-contracted remodeling wastes from single-unit or multi-unit dwellings and similar large and small items produced as refuse.

Business, commercial establishment or institution. Includes any building or structure or premises not defined as a residence, and includes land extending beyond property boundaries to the centerline of adjacent public rights of way including alleys and streets.

Construction/Demolition Waste. Waste which typically results from construction or demolition projects and includes all materials which are directly the byproducts of construction work or which result from demolition of buildings and other structures, including, but not limited to paper, cartons, gypsum board, wood, excelsior, rubber and plastics.

Disposal. Placement of municipal solid waste inside a permitted/approved landfill/site.

Excessive Amounts/Undue Accumulation. Uncontained bulky waste in excess of a total volume of four by three by eight feet.

Hazardous Waste, Special Waste & Industrial Waste. As defined by the Environmental Protection Agency (EPA) or Texas Commission on Environmental Quality (TCEQ) rules.

Household Hazardous Waste. Includes but is not limited to paints, solvents, pesticides, lawn and pool chemicals, produced at residential premises as defined by the Federal Solid Waste Disposal Act, as amended, or the Resource Conservation and Recovery Act of 1976 and all amendments thereto, or regulations promulgated there under.

Landfill (sanitary). A controlled area of land upon which solid waste is disposed of in accordance with standards, rules or orders established by the TCEQ.

Manager. The manager of the Solid Waste Services Division of the Public Works Department or designee.

Medical Waste. Special waste as defined in 25 Texas Administrative Code §1.132(44), and as amended. The term does not include medical waste produced on farm and ranch land as defined in Agricultural Code §252.001(6), and as amended, nor does it include artificial, non-human material removed from a patient and requested by the patient, including but not limited to orthopedic devices and breast implants.

Municipal Solid Waste. Includes but is not limited to durable goods, non-durable goods, containers and packaging, food waste, yard waste, and miscellaneous inorganic and organic waste from residential, commercial, institutional, and recreational activities. Examples of waste from these categories include, but are not limited to, appliances, newspapers, clothing, food scraps, boxes, disposable tableware, office and classroom paper, wood pallets and cafeteria wastes.

Occupant. A renter, owner, lessee, individual, dweller, resident, tenant, user, and/or business that occupies any premises within the City or that has care, custody or control of the premises.

Putrescible solid waste. Solid wastes which are capable of becoming decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases and capable of providing food for or attracting birds and disease-carrying vectors.

Residence - Single-Family. A building containing only one (1) or two (2) dwelling units. The term is general and includes such specialized forms as single-family detached, single-family attached, duplexes and patio homes. The term also includes land extending beyond property boundaries to the centerline of adjacent public rights of way including alleys and streets.

Residence - Multi-family. A building containing three (3) or more dwelling units. The term includes cooperative apartments, condominiums, and the like. The term also includes land extending beyond property boundaries to the centerline of adjacent public rights of way including alleys and streets.

Recyclable solid waste. Includes but is not limited to bimetal/ aluminum cans, glass, #1 & #2 plastic, paper, cardboard, appliances, scrap metal, yard trimmings, tree limbs, and grass clippings, oil filters, automotive fluids, and tires.

Solid waste collection container. A polyethylene container, metal dumpster, or roll-off metal containers supplied by the City for the collection of solid waste, or a metal or plastic container, not exceeding 32 gallons, furnished by the occupant on manual collection routes.

Yard waste. Includes but is not limited to tree trimmings, grass cuttings, dead plants, weeds, leaves, branches and dead trees and similar materials.

Sec. 27-6 – 27-10. Reserved.

ARTICLE II. RESPONSIBILITIES

Sec. 27-11. Solid Waste Services Division Responsibilities.

The following are the responsibility of the Solid Waste Services Division. This list shall not be deemed or construed to be conclusive, limiting or restrictive:

- (a) Collect, transport and dispose of all collectible municipal solid waste and adopt reasonable administrative policies, procedures and regulations to carry out the intent of this Chapter.
- (b) Provide collection container service according to the kind and volume of solid waste to be removed, economy of operation, and capability within the Division. The type of solid waste service provided will be at the direction of the Manager.
- (c) Determine the necessity and feasibility of a collection vehicle entering any property to collect municipal solid waste.
- (d) Establish appropriate routes and schedules for municipal solid waste collection.
- (e) Designate the size, location, and number of collection containers to be installed at any designated collection point in accordance with City Code requirements.
- (f) Designate the location of any collection containers used in the solid waste

collection system in accordance with City Code requirements.

- (g) Designate all commercial collection container sites in accordance with City Code requirements.
- (h) Require satisfactory solid waste handling including utilization of all solid waste collection containers, including location, capacity, overflow situations and frequency of service.
- (i) Investigate complaints.
- (j) Notify the occupant of the premises of nonconforming collection containers and nonconforming pre-collection practices.
- (k) Suspend or temporarily move solid waste collection services or location when alleys or streets become impassable because of inclement weather or other conditions. Resume services when conditions are conducive to the safe operation of solid waste collection equipment in alleys and on City streets.
- (l) Publish observed holiday schedules in the local media.
- (m) Receive, transport, and process recyclable solid waste and adopt reasonable administrative policies, procedures and regulations to carry out a voluntary recycling program.
- (n) Receive, transport and process household hazardous waste and adopt reasonable administrative policies, procedures and regulations to carry out a household hazardous waste disposal program.

Sec. 27-12. Commercial Property Occupant's Responsibilities.

The following are the responsibility of the occupants of commercial properties. Any commercial property that is occupied and/or in operation is evidence that collectible solid waste is being produced and accumulated on the premises. There is a presumption that items found on a property were deposited there by the occupant. This list shall not be deemed or construed to be conclusive, limiting or restrictive:

- (a) Notify the City before the beginning of each occupancy, of changes to the existing property or to the usage of the property that may alter the solid waste collection service required and request solid waste collection service. Service will not begin or change until notification occurs.
- (b) Meet all Local, State and Federal standards by ensuring there are collection containers of sufficient size and number on the property in a location where

they are accessible to the customer of such property for the disposal of municipal solid waste items. Such collection containers shall have conspicuous signs conveying to customers a request that they use the collection containers for the disposal of municipal solid waste.

- (c) Sign a City of Abilene Private Property Refuse Collection Agreement for collection containers placed on private property. Failure to sign the Agreement will result in a denial of service.
- (d) Complete and maintain manifests, if required, for disposal of material in open-top and compactor containers, prior to scheduled pickup. Failure to have the required manifest at the collection container may result in additional off-route charges as listed in the "Schedule of Rates and Charges" for the Solid Waste Services Division.
- (e) Cover or enclose any collection container or vehicle used to transport municipal solid waste on any street or alley of the City.
- (f) Keep closed all commercial solid waste collection containers equipped with lids to prevent spillage of waste.
- (g) Keep property clean of solid waste thrown or left by customers, and prevent same from drifting or blowing to adjoining properties.
- (h) Ensure all material is placed inside an open top collection container. No fill is allowed above the container's sides so as to prevent tarping of the container.
- (i) Soak all ashes and charcoal with water to extinguish all live embers and allow to cool for twenty-four hours prior to placement in collection containers.
- (j) Bag and securely tie, box, or bundle lightweight waste and loose items prior to placing in a collection container.
- (k) For developments requiring a site plan, indicate on the site plan and have approved through the City's planning review process the location of all enclosures, gates, collection containers, approaches and means of ingress and egress from the collection containers.
- (l) For all new construction, all collection container locations shall have an approved concrete slab that meets design specifications that are on file with the Solid Waste Services Division. If a concrete slab is not required by other City Codes, any exceptions must be approved by the Manager.

- (m) Where screening or enclosure of collection containers is required by zoning or other City Code, the enclosure or screening shall meet design specifications that are on file with the Solid Waste Services Division office.
- (n) Ensure sites are free of overhead hazards to a height of 20 feet.
- (o) Ensure all municipal solid waste transported by the occupant is unloaded only at facilities authorized to accept the kind of waste being transported.
- (p) Unless location has been designated through the site plan process, failure to meet subsections (l)-(n) of this Section shall result in the collection container's placement at a location designated by the Manager. The primary considerations in site selection shall be the safety of the collection vehicle and the general public as well as compliance with City Code requirements.

Sec. 27-13. Residential Property Occupant's Responsibilities.

The following are the responsibilities of the occupants of residential properties. Any residential property that is occupied is evidence that collectible solid waste is being produced and accumulated on the premises. There is a presumption that items found on a property were deposited there by the occupant. This list shall not be deemed or construed to be conclusive, limiting or restrictive:

- (a) Ensure solid waste collection containers on manual collection routes are of a durable grade of galvanized metal or other suitable material approved by the Manager, do not exceed thirty-two gallons, and do not weigh more than fifty pounds when full. Collection containers shall have two lifting handles on opposite sides, a tight fitting cover, and shall be kept clean and in good repair. The collection container shall be without inside protrusions, and its contents shall discharge freely when inverted. Containers that exceed fifty pounds will not be collected.
- (b) Ensure solid waste bags on manual collection routes are made of heavy multiple-ply paper or polyethylene or ethylene copolymer resin and are designated for outdoor storage of solid waste. Bags must be securely tied or sealed to prevent the emission of odors, be impermeable to liquids and greases, and be of sufficient thickness and strength to contain the solid waste enclosed without tearing or ripping under normal handling. The bags shall not exceed fifty (50) pounds when full. Bags that exceed fifty pounds will not be collected.
- (c) Soak ashes or charcoal with water to extinguish all live embers and allow them to cool for twenty-four hours prior to placement in collection

containers.

- (d) Bag and tie securely, box, or bundle loose municipal solid waste and place in the collection container with a closed lid. Pick up small items lying loose on the ground as they will not be picked up by the Solid Waste Division.

- (e) For *curb* collection, place collection container within four feet of the curb-line on which the residence/property is serviced so as not to block the sidewalk, unless the Manager designates a different location.

- (f) For *curb* collection, place collection containers at the designated pickup point no sooner than 6 p.m. the night before their collection day but no later than 6 a.m. on the day of their collection. Containers must be removed from the curb by 8:00 a.m. on the day after collection.

- (g) Dispose of municipal solid waste not prepared in accordance with this Chapter or not permitted in residential solid waste collection containers.

- (h) Ensure bulky waste is prepared and set out for collection in accordance with this Chapter.

- (i) Ensure municipal solid waste transported by the occupant is unloaded only at facilities authorized to accept the kind of waste being transported.

Sec. 27-14 – 27-20. Reserved.

ARTICLE III. COLLECTION

Sec. 27-21. Commercial Collection.

- (a) Roll-off service will be provided for large volume municipal solid waste customers.

- (b) Roll-off service will be provided either through stationary compactors or open top metal containers as determined by the Manager.

- (c) Municipal solid waste containing putrescible waste shall be collected at least once a week pursuant to state law, or more frequently for public health concerns if designated by the Administrator.

Sec. 27-22. Residential Collection.

Residential collection shall be provided through curbside roll-out service, alley service, or manual collection as determined by the Manager.

Sec. 27-23. Bulky Solid Waste Requirements.

The following requirements must be met for Bulky Waste Collection. The Solid Waste Services Division may decline to accept items containing other municipal solid waste, contraband, hazardous wastes or regulated items that cannot be disposed of in the landfill. Occupants should check the Solid Waste Service Division's web site or call the Solid Waste Services Division for collection schedules.

- (a) Only bulky waste generated by the occupant of the place of collection is eligible for collection.
- (b) Bulky waste must be placed where designated by the Administrator.
- (c) Any claim of ownership to the bulky waste is relinquished when the waste is collected by the Solid Waste Services Division.
- (d) Small items lying loose on the ground shall be bagged, tied, and placed into the collection container by the occupant for proper collection.
- (e) Bulky waste shall not be commingled with yard waste or other municipal solid wastes.
- (f) Doors on refrigerators and other bulky waste with affixed doors or panels shall be removed or disabled to prevent closure before placement for collection.
- (g) Uncontained bulky waste shall be limited to a total volume of less than four by three by eight feet. It is the responsibility of the occupant to notify the Solid Waste Services Division of excessive amounts or undue accumulations of waste and arrange for collection. Such service shall be subject to the scheduling and availability of Solid Waste Services Division's personnel and equipment. Rates are listed in the "Schedule of Rates and Charges" for the Solid Waste Services Division.
- (h) Tree limbs shall be cut to a length of four feet or less.
- (i) Any tree trunks, tree stumps or root balls shall be free of dirt, less than four feet in length, and weigh less than fifty pounds.
- (j) Fencing and fence posts shall be cut into four-foot lengths, void of protruding nails, and neatly stacked. Concrete bases are not handled by the Solid Waste Services Division and shall be removed by occupant.

- (k) Bulky waste shall be placed so as to allow ten feet (10') of clearance from collection containers, utility meters and other fixed obstacles.
- (l) For *alley* collection, bulky waste must be placed in the alley in the rear of the residence where the waste was generated so as not to block traffic in the alley.
- (m) For *alley* collection, bulky waste shall be placed at the approved collection location no sooner than ten (10) days before the published schedule of collection for the given area.
- (n) For *curb* collection, bulky waste must be placed behind the curb in front of the property where the waste was generated so as not to block any sidewalk.
- (o) For *curb* collection, bulky waste shall be placed at the approved collection location no sooner than forty-eight (48) hours before the published monthly schedule of collection for the given area.

Sec. 27-24 – 27-25. Reserved.

ARTICLE IV. PROHIBITIONS

Sec. 27-26. Prohibited Acts.

The following items, condition, or actions are hereby declared to be prohibited under this Chapter and are therefore unlawful. Waste prohibited for collection shall be disposed of directly, promptly and properly in an approved and legal location by the occupant of the premises where such material is accumulated. Removal of bulky/uncontained items prohibited from placement in collection containers may be provided at rates listed in the "Schedule of Rates and Charges" for the Solid Waste Services Division. This list shall not be deemed or construed to be conclusive, limiting or restrictive:

- (a) No person other than a duly authorized employee of the City or law enforcement official acting within the official scope of duties shall collect or remove any solid waste or recyclable material from a solid waste collection container used for municipal solid waste or recycling collection.
- (b) No person other than a duly authorized employee or agent of the City shall empty city owned solid waste or recycling collection containers.
- (c) The following items shall **NOT** be placed in **any** collection container:

- (1) Tires, oil, oil filters, lead acid batteries, commercial pesticides for residential use, liquid mercury as contained in thermometers and mercury switches and any waste that is not permitted to be landfilled by the US Environmental Protection Agency or the Texas Commission on Environmental Quality. These regulated items shall be disposed of at the Household Hazardous Waste Unit in the Environmental Recycling Center or as allowed by related programs.
 - (2) Hazardous Waste, Special Waste & Industrial Waste.
 - (3) Medical waste not properly treated or contained.
 - (4) Needles/sharps improperly contained that constitute a sticking hazard.
- (d) The following items shall **NOT** be placed in **residential** collection containers:
- (1) Dead animals.
 - (2) Major construction and demolition waste.
 - (3) Any solid waste items likely to damage City collection equipment including but not limited to rocks, engine blocks, steel, and lead pipes.
 - (4) Unbagged leaves, grass clippings, shrubbery trimmings, and tree prunings.
 - (5) Large tree stumps with root balls.
 - (6) Tree trunks greater than six inches in diameter and eighteen inches in length or of a bulk weight of more than fifty pounds.
 - (7) Any items defined as bulky waste in Sec. 27-5.
- (e) No person shall place, or permit another to place, any municipal solid waste in any solid waste collection container unless the solid waste is from the premises served by the collection container.
- (f) No person shall off-load municipal solid waste at an unauthorized location or at a facility not authorized to accept such waste.
- (g) No person shall park in such a manner that would interfere with the collection of municipal solid waste from any collection container serviced by the Solid Waste Services Division. Blocked collection containers will not be emptied.
- (h) On the day of normally scheduled municipal solid waste collection, the parking of a vehicle or trailer perpendicular or diagonal to a curb within a cul-de-sac with roll-out collection service, shall be considered an obstruction to the removal of

solid waste from a solid waste collection container, and *the collection container will not be emptied.*

Sec. 27-27. Exceptions.

This section shall not prohibit any occupant from removing solid waste from the premises under their control to an approved landfill or recycling site.

Sec. 27-28 – 27-30. Reserved.

ARTICLE V. ENFORCEMENT

Sec. 27-31. Declared a Nuisance.

Except where remedy has been specifically designated herein, violations of this Chapter shall constitute a violation of Chapter 19, “Nuisances and Illegal Dumping” and enforcement shall proceed under that Chapter.

Sec. 27-32. Additional remedies.

- (a) The Manager may authorize discontinuance of service where any user repeatedly violates any of the provisions of this Chapter.

- (b) For *curb* collection, if a collection container is not removed from the curb by 8:00 a.m. the day after the collection day, the following procedure will take place.

- 1. A notice describing the violation will be affixed to the collection container or left with the occupant.
- 2. After the third notice within 90 days, the container may be removed by the City and returned after payment of a service fee as set in the "Schedule of Rates and Charges" for the Solid Waste Services Division.

Sec. 27-33 – 27-50. Reserved.