

ORDINANCE NO. 16- 009

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING CHAPTER 15, "GARBAGE AND TRASH," OF THE CODE OF THE CITY OF GALVESTON, 1982; AS AMENDED, BY AMENDING ARTICLES I, AND IV AS THEY RELATE TO TEMPORARY HAULERS AND ADDING ARTICLE VI., "TEMPORARY HAULERS" TO PROVIDE PERMIT REQUIREMENTS AND REGULATIONS; TO REQUIRE THE USE OF THE CITY TRANSFER STATION; TO PROVIDE FOR FEES AND PENALTIES; TO PROVIDE FOR AN EFFECTIVE DATE OF APRIL 1, 2016; AND MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

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**WHEREAS**, the City of Galveston seeks to maximize the quality of services provided to its residents and citizens and to maintain a quality environment that optimizes environmental resources, creates better visibility to hauling protocols and increase the health and safety of the community; and,

**WHEREAS**, the City of Galveston desires to establish rules and regulations regarding temporary hauling companies interested in providing temporary hauling of solid waste and other non-hazardous materials collection services to the city's residential and commercial customers; and,

**WHEREAS**, staff recommends temporary haulers obtain a permit, pay an annual permit fee; pay an annual vehicle or container permit sticker fee; and that temporary haulers use the city transfer station for deposition of allowed waste materials; and,

**WHEREAS**, staff recommends amending Chapter 15, "Garbage and Trash," of The Code of The City of Galveston, 1982; as amended, Articles I and IV, as they relate to temporary haulers and adding Article VI. "Temporary Haulers" to provide regulations, fees and permits for temporary haulers; and,

**WHEREAS**, the City Council of the City of Galveston deems it to be in the public interest to amend Chapter 15, "Garbage and Trash," of The Code of The City of Galveston, 1982; as amended, by amending Articles I and IV and adding Article VI, "Temporary Haulers", and making various provisions related to the subject.

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

**SECTION 1.** The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.** Chapter 15, "Garbage and Trash," of The Code of The City of Galveston, 1982; as amended, Article I. "In General" is amended to read and provide as follows:

## ARTICLE I. IN GENERAL

### Sec. 15-2. - Definitions.

As used in this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

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Director of Municipal Utilities or Director of Public Works: shall be known as Director of Public Infrastructure, or his or her designee.

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Temporary Container: A refuse container used for short term disposal of waste materials which is not limited to; but includes, roll offs, dump trucks and temporary dumpsters.

Temporary Hauler: A person, individual or company that collects, removes and disposes of solid waste materials of another person or solid waste materials generated by the person, individual or company using a temporary container. Temporary hauler shall not include a residential customer and as provided in section 15-106, "Temporary Hauler permit not required".

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**SECTION 3.** Chapter 15, "Garbage and Trash," of The Code of The City of Galveston, 1982; as amended, Article IV. – "Private Collectors Franchise" is amended to read and provide as follows:

## ARTICLE IV. - PRIVATE COLLECTORS FRANCHISE

### Sec. 15-61. - Required.

(A) Franchise Holders - No person shall furnish, operate, conduct, advertise for or otherwise be engaged or profess to be engaged in the operation of a private refuse, solid waste, garbage or trash collection service upon the public streets, highways, alleys and rights-of-way of the city without having first obtained a franchise in accordance with the terms and provisions of this article. All private refuse collectors currently holding a permit from the city shall not be deemed in violation of this section if they make application for a franchise on or before January 1, 1989. Any person holding a temporary hauling permit under section 15-62 of this article shall not be deemed in violation of this article. Private residential recycling haulers are not required to obtain a franchise as described under this article, but must comply with the provisions of section 15-76.

(B) Private residential recycling haulers are not required to obtain a permit as described under this Article, but must comply with the provisions of section 15-76.

### Sec. 15-62. - Temporary Hauler.

~~Any person who obtains a permit to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure who engaged in any hauling of trash, debris, or construction materials from the demolition or construction site shall pay a temporary hauling fee of eight (8) percent of the total consideration of the temporary haulers construction or demolition contract. This fee shall be in addition to any building permit, construction permit, demolition permit or other fee charged by the city. All temporary haulers generating more than fifty thousand dollars (\$50,000.00) in gross receipts per year from the hauling of refuse, trash, garbage, and solid waste shall be required to obtain a franchise and to utilize the transfer station in accordance with the requirements of article V, transfer station, of the city code., section 15 92 of the city Code.~~

~~Any person, individual or company, other than a residential customer that collects, removes and disposes of solid waste materials of another person or solid waste materials generated by the person, individual or company using a temporary container, shall obtain a permit as a temporary hauler pursuant to Article VI.~~

**SECTION 4.** Chapter 15, "Garbage and Trash," of The Code of The City of Galveston, 1982; as amended, hereby amended by adding Article VI. "Temporary Haulers" to read and provide as follows:

## **ARTICLE VI. TEMPORARY HAULERS**

### **Sec. 15-100. Temporary Hauler permit form.**

The temporary hauler permit form shall provide or include the following:

1. The name and address of the temporary hauler;
2. The trade name under which the temporary hauler does or proposes to do business;
3. The mailing address of the business;
4. The office telephone number of the business;
5. Temporary hauler facsimile number;
6. Temporary hauler e-mail address;
7. The location of the business;
8. The class, size and design of each vehicle that will be used for temporary hauling;
9. A sworn statement that any solid waste collected or transported within the city will be disposed of at a facility that is authorized by the City to accept the type of solid waste that the applicant has collected or transported;

10. Such other information as the City Manager or designee deems reasonably necessary to administer this section.

#### **Sec. 15-101. Temporary Hauler Annual Permit Fee.**

The Temporary Hauler permit form shall be accompanied by a permit fee payable to the city, and shall be subject to an annual permit fee due every fiscal year, as established by the City Council.

1. The 2016 permit fee shall be twenty five dollars (\$25.00) per entity;
2. Each annual permit fee thereafter shall be twenty-five dollars (\$25.00) or as established by the City Council;
3. The permit is valid from the date the completed permit form is filed with the City and payment of the permit fee has been made;
4. A permit expires on September 30 of each year, unless otherwise provided herein;
5. The city shall automatically revoke any permit that is not renewed timely as set forth in this Article. In the event a permit is revoked for failure to timely renew, the applicant must apply for a new permit, as if a permit had never been issued.

#### **Sec. 15-102. Transfer Station.**

All temporary haulers shall utilize the transfer station, in accordance with the requirements of Article V, "Transfer Station", of the City Code. In the event that materials unacceptable to the operators of the transfer station are present in the load, the transfer station operator will issue a pass for that load to be disposed of at the appropriate designated disposal site/facility.

**Non-permitted** temporary haulers will **NOT** be issued a pass and will be reported to the City for enforcement in accordance with the provisions of this Chapter.

#### **Sec. 15-103. Vehicle or Container Permit Sticker.**

Any vehicle or container used to collect the solid waste within the city, used to transport solid waste on the streets, alleys or public thoroughfares of the city, or used to dispose of any solid waste at a facility operated by the City, must have a permit with a vehicle or container permit sticker.

#### **Sec. 15-104. Vehicle or Container permit sticker application form.**

The application for a permit sticker shall provide or include the following:

1. Name of the applicant;
2. Temporary hauler permit number;

3. The following information regarding each vehicle used to transport solid waste within the city or to a city owned solid waste facility:
  - a. Make of vehicle.
  - b. Model of vehicle.
  - c. Vehicle identification number (VIN).
  - d. Gross weight.
  - e. Tare weight.

#### **Sec. 15-105. Vehicle or Container Fee.**

The temporary hauler vehicle or container fee(s) shall be as established by the City Council.

1. The 2016 vehicle or container fee shall be one dollar per vehicle or container;
2. Each container or vehicle shall have an individually numbered permit sticker as provided by the City affixed to the container or vehicle;
3. The permit sticker expires on September 30 of each year and is subject to an annual vehicle or container sticker fee.

#### **Sec. 15-106. When temporary hauler permit is not required.**

1. A resident of the city shall not be required to obtain a temporary hauler permit to haul solid waste from the dwelling in which the resident resides to a city disposal site.
2. Residents are not exempt from any other requirements of this Code or other applicable federal or state laws for the conveying, transporting or disposing of solid waste.

#### **Sec. 15-107. When vehicle or container permit sticker is not required.**

The following vehicles are not required to have a solid waste vehicle permit sticker:

1. Non-commercial vehicle, unless being used for a commercial activity. A vehicle is being used for a commercial activity if the owner or operator of the vehicle is receiving any consideration for transport of solid waste to the City's disposal facility.
2. Commercial vehicle transporting household waste for a residential customer, when accompanied by the residential customer. The residential customer must be the driver or a passenger in the commercial vehicle or arrive in a separate vehicle at the landfill with the residential customer's waste.

#### **Sec. 15-108. - Insurance required.**

Temporary haulers shall provide and maintain satisfactory proof of general public liability insurance, including motor vehicle liability insurance available to protect the interest of the city and its residents. All insurance policies are to be issued by an insurance company authorized to

do business in the State of Texas, using an insurance company with an A.M. Best rating of a B+ or better. Insurance policies shall name the City of Galveston as an additional insured and as certificate holder, and waiving subrogation.

The minimum insurance limits are as follows:

- (1) Insurance per occurrence - \$300,000.00
- (2) Insurance annual aggregate - 300,000.00
- (3) Insurance bodily injury - \$100,000.00
- (4) Insurance property damage - \$100,000.00

The policy shall contain a clause requiring thirty (30) days' notice be given to the city prior to cancellation. If the insurance company gives such notice of cancellation, the holder shall obtain new insurance before the expiration of the thirty (30) day period; if the holder fails to do so the permit shall be immediately revoked.

#### **Sec. 15-109. - Placement of containers in City right-of-way.**

Except as provided herein, temporary haulers may not place their disposal dumpsters on any city or state right-of-way within the city limits, without a valid license to use permit. All dumpsters must be placed on the customer's private property.

#### **Sec. 15-110. - Transfer Station Disposal Rate.**

1. Permitted temporary haulers are subject to regular disposal rate tonnage fee as determined by the City either by ordinance or pursuant to transfer station agreement approved by the City;
2. Non-permitted temporary haulers will be subject to:
  - a. A rate of \$10.00 above the regular transfer station disposal rate per half tonnage; and,
  - b. Tonnage rates shall be prorated in half tonnage increments.

For example:

- \* Less than ½ ton – assessed at ½ tonnage regular disposal rate fee;
- \* More than ½ ton and less than a ton – assessed at 1 tonnage regular disposal rate fee;
- \* More than a ton, and up to a ton and a half - will be assessed 1 ½ tonnage regular disposal rate fee;
- \* More than a ton and a half and up to 2 tons – will be assess 2 tons, tonnage regular disposal rate fee and so on.

**Sec. 15- 111. - Gross hauling, disposal charges and other fees charged to the customer.**

1. The temporary hauler shall, pay to the city, at the office of the Director of Finance in lawful money of the United States, eight (8%) percent of its gross hauling, disposal charges and other fees charged to the customer (sales tax and franchise fees excepted) derived from the operation of the refuse collection service within the city or its extraterritorial jurisdiction (ETJ), which remittance shall be made monthly on or before the twentieth (20<sup>th</sup>) day of each calendar month.
  
2. It shall be the duty of the temporary hauler to file with the city's finance director a sworn statement showing all receipts for the preceding month which statement shall be filed within twenty (20) days following the end of each month. Any temporary hauler who fails to pay within twenty (20) days shall be subject to and pay a penalty of one percent per month or twelve (12) percent per year on each such late payment. Each temporary hauler herein shall be required to keep a system of bookkeeping subject to inspection by the City of Galveston's finance department and such person or persons as the city may designate, so as to enable the city to check the correctness of the accounts kept and to compute fairly and accurately the amount of gross hauling, disposal charges and other fees charged to the customer that may be due to the city.

**Sec. 15- 112. - Inspection of books and records.**

The books and records of the temporary hauler shall be open at reasonable times for inspection by the city manager or any official designated by the city manager.

**Sec. 15-113. - Rules and regulations.**

The director of public infrastructure may impose all reasonable rules and regulations as a condition precedent to issuing a permit under this Article and as a condition subsequent to continuing validity. Such rules and regulations may include, but are not necessarily restricted to, the type of vehicle to be used in collection, method and route for transporting said collection, appropriate disposal locations and identification of trucks. All such rules and regulations shall be subject to the approval by the city council.

**Sec. 15-114. - Delinquent accounts.**

The city's public works department shall send any temporary waste hauler who is forty-five (45) days or more delinquent in paying its permit fee a certified letter advising of the delinquency. If the waste hauler does not send full payment within twenty (20) days of the date of the letter, the public works department shall void the permit until all past due amounts have been paid in full, including applicable interest.

**Sec. 15-115. - Offenses.**

1. As provided in this Article, the use of any vehicle to collect the solid waste within the City, used to transport solid waste on the streets, alleys or public thoroughfares of the City, or used to dispose of any solid waste at a facility, operated by the City or its designees, without a valid permit is an offense.
2. The placement of any vehicle or container within the City without a current permit sticker displayed on the vehicle or container is an offense.
3. An attempt to dispose of a load at a facility other than the transfer station without a pass issued by the transfer station operator is an offense.

**Sec. 15-116. - Penalties.**

1. A violation under this section is a Class C misdemeanor offense. Each day shall constitute a separate offense.
2. Pursuant to state law and the Code of the City of Galveston, the maximum penalty for offenses arising under such code or ordinance of the city governing fire safety, zoning, public health and sanitation, shall not exceed the sum of two thousand dollars (\$2,000.00).
3. If such maximum penalty provided for by this code or any such offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the state, then the maximum penalty for violation as provided by state statute shall be the maximum penalty under this code.
4. Penalties provided for are in addition to any other enforcement remedies that the City may have under city ordinances and state law.

**SECTION 5.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 6.** All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**SECTION 7.** In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

**SECTION 8.** This Ordinance shall be and become effective on **April 1, 2016** after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

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DONNA M. FAIRWEATHER  
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on January 28, 2016, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Secretary for the City Council  
of the City of Galveston

**SECTION 8.** This Ordinance shall be and become effective on April 1, 2016 after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

  
DONNA M. FAIRWEATHER  
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on January 28, 2016, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this 2nd day of Feb., 2016.



  
Secretary for the City Council  
of the City of Galveston