

**ORDINANCE NO. 357**

**AN ORDINANCE OF THE CITY OF TIOGA, GRAYSON COUNTY TEXAS, REGARDING THE COLLECTION OF SOLID WASTE, GARBAGE AND REFUSE FROM PREMISES WITHIN THE CITY; PROVIDING REGULATIONS FOR THE COLLECTION OF GARBAGE, TRASH AND RECYCLABLE MATERIALS; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR FINDINGS; PROVIDING FOR A CUMULATIVE REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTY; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Tioga is a General-Law municipality located in Grayson County, Texas (the "City"), created in accordance with the provisions of the Texas Local Government Code, the Texas Constitution and operating pursuant to the enabling legislation of the state of Texas; and

**WHEREAS**, the Texas Legislature has found that control of solid waste collection and disposal is the responsibility of local governments; and

**WHEREAS**, the State law mandates that each municipality shall assure that municipal solid waste collection and disposal services are provided to all persons within its jurisdiction either by the municipality or a private person; and

**WHEREAS**, the State law evidences a clear articulation of State policy to allow municipalities to regulate competition in the providing of municipal solid waste services in order to insure the most effective and efficient regulation, collection and disposal of solid waste and to protect the public health, safety and welfare; and

**WHEREAS**, the City Tioga, Texas deems it appropriate to adopt regulations for the collection of garbage, refuse and solid waste within the to protect public health, safety and well being of all citizens by eliminating possible germ breeding materials and conditions which may contribute to the spreading of diseases and infections to humans and animals, and to provide a means for the controlled and safe handling, collection, transporting and disposal of municipal solid waste within the City;

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

**SECTION 1**  
**INCORPORATION OF PREMISES**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2**  
**FINDINGS**

After due deliberations the City Council has concluded that the adoption of this Ordinance is in the best interest of the City of Tioga, Texas and of the public health, safety and welfare.

**SECTION 3**  
**GARBAGE AND RECYCLING COLLECTION ORDINANCE**

**ARTICLE I**  
**DEFINITIONS**

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

***BRUSH.*** Parts or all of trees and shrubs.

***BULKY WASTE.*** Bundled brush, stacked brush, fencing, appliances and other waste materials with weights or volumes greater than those allowed for permanent containers, but specifically excluding unacceptable waste.

***BUNDLED BRUSH.*** Brush securely tied together to form an easily handled package not exceeding four (4) feet in length or fifty (50) pounds in weight.

***CURBSIDE SERVICE.*** Garbage, trash and recyclable materials to be picked up by the CONTRACTOR which will be located at the curbside of the street bearing the customer's address.

***CUSTOMER.*** Any owner, occupant, tenant or person otherwise in control of premises in the City on which garbage and trash are accumulated and from which the same is removed or required to be removed pursuant to the terms of this article.

***DEBRIS.*** Automobile frames, loose brush, and dirt, concrete, rocks, bricks, lumber, plaster, sand, gravel, or other waste construction materials, unless the amount of these materials is insignificant.

***FENCING.*** Wooden fence panels cut into four (4) feet by six (6) feet sections. Loose pickets must be tied and in bundles weighing no more than fifty (50) pounds in weight per bundle.

**GARBAGE.** Solid waste that is putrescible animal and vegetable waste materials from the handling, preparation, cooking or consumption of food, including wastematerials from markets, storage facilities and the handling and sale of produce and other food products.

**HAZARDOUS WASTE.** All fecal material, oil, sludge, and any radioactive, pathological, toxic, explosive, flammable, combustible, acidic or volatile materials, or other hazardous or improper wastes, including solid wastes regulated as hazardous under the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 1002, *et. Seq.*, or regulated as toxic under the Toxic Substance Control Act, 15 U.S.C.A. Section 2601, *et. Seq.*, and regulations promulgated thereunder or other applicable Federal or State law concerning the regulations of hazardous or toxic wastes.

**LANDFILL PROHIBITED WASTE MATERIALS.** Non-hazardous materials prohibited from disposal at Type I landfills pursuant to TCEQ regulations, 30 TAC, Section 330.5. Prohibited waste materials include, but are not limited to, tires, used oil filters, and PCBs or PCB containing equipment.

**LIQUID WASTE.** For this purposes of this article, means any waste material that is determined to be or contain "free liquid" by a paint filter test (EPA METOHD 9095)

**LOCAL REGULATORY AUTHORITY.** Any municipal officer or department of the City, designated by the City Manager, to administer this article.

**OWNER.** The actual fee holder of the title to residential property and does not include tenant, lessee or subleases.

**RECYCLABLE MATERIAL.** A material that has been recovered or diverted from the nonhazardous waste stream for the purposes of reuse, recycling or reclamation, a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. The following constitute recycled materials.

- (1) Newspapers, magazines and catalogs, excluding other paper items, such as mail, paper bags or other paper.
- (2) Clear and colored glass bottles and jars, excluding mirrors, windows, ceramics, light bulbs and other glass products.
- (3) Metal cans composed of tin, steel or aluminum (excluding, scrap metals).
- (4) Plastic containers of polyethylene terephthalate and high density polyethylene varieties, also designated as #1, #2 #3, #4, #5 and #7 clearplastics.
- (5) Other items identified as recyclable by the city and any person having a franchise or license with the city, or as a result of changes in local, state, or federal laws, ordinances, or regulation.

**RECYCLING.** The legitimate use, reuse or reclamation of solid waste.

**RESIDENTIAL PREMISE.** A dwelling within the City limits occupied by a person or group of persons comprising not more than four (4) families. A residential premise may be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction; consisting of four (4) or fewer units shall be treated as a residential premise.

**RESIDENTIAL WASTE.** Garbage and trash generated by a resident and placed curbside for the regular collection at a residential premise, but does not include unacceptable waste, debris, or bulky waste.

**SPECIAL WASTE.** Any waste defined as Special Waste by 30 TAC §330.3 (148).

**STACKED BRUSH.** Brush cut to no more than five (5) feet in length and stacked neatly at curbside.

**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 the keeping of animals, poultry, or livestock.

**TRASH.** All household refuse other than Garbage, Debris, Loose Brush, and Bulky Waste; trash shall include grass, yard clippings, weeds, heavy accumulations of newspaper and magazines, recyclable materials, old clothes, and other household trash of like kind, but shall not include unacceptable waste.

**UNACCEPTABLE WASTE.** Any and all waste that is either:

- 1) Waste which is now or in the future becomes prohibited from disposal at a sanitary landfill by state, federal, and/or local laws and/or regulations promulgated there under; or
- 2) "Hazardous Waste"; or
- 3) "Special Waste", as defined herein; or
- 4) Waste, including landfill prohibited waste materials, which is prohibited from disposal at the landfill by Waste Management including tires, concrete, and bulk petroleum or chemical products or by-products; or
- 5) Liquid waste, as defined herein, and septic tank pumping and grease and grit trap wastes; or
- 6) Sludge waste, including water supply treatment plant sludge and stabilized and/or unstabilized sludge from municipal or industrial wastewater treatment plants; or
- 7) Dead animals and/or slaughterhouse waste, except for animal euthanized under authority and direction of Waste Management; or
- 8) Any waste, including "special waste" as defined herein, which because of its quantity, concentration, frequency of disposal, required disposal procedures, regulatory status, or physical, chemical, infectious or other characteristics jeopardizes or may jeopardize the environmentally sound operation of the disposal site, as determined by Waste Management in its sole discretion; or

- 9) Construction debris not generated by a residential customer; or
- 10) Appliances containing CFC's that do not bear a certification tag that shows the CFC's have been properly recovered in accordance with federal law; or
- 11) "Stable Matter", as defined herein.

***UNHEALTHY OR UNSANITARY SITE.*** A site where conditions represent a threat to human health and public safety, due to accumulations of waste material or frequency of service.

***UNSIGHTLY SITE.*** A site that represents a visual blight to the surrounding area.

***YARD WASTE.*** Leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material not greater than six inches in diameter that result from landscaping maintenance. The term does not include stumps, roots or shrubs with intact root balls.

## **ARTICLE II RESIDENCES AND BUSINESSES REQUIRED TO SUBSCRIBE**

All residents and tenants, owners or operators using or occupying any commercial property within the corporate city limits shall use and pay for service provided by the waste disposal service currently under contract with the City for collection of all garbage, rubbish, trash, or refuse except for auto parts, scrap metal, rocks, concrete, sand, gravel, dirt, dead animals, construction debris, and hazardous material. Residents and commercial customers shall be automatically enrolled in the service.

## **ARTICLE III GARBAGE COLLECTION**

### **Section A. Placing of Refuse Containers**

It shall be unlawful for any person to deposit any garbage or trash upon or along any alley, sidewalk, street or other public or private premises except in containers as authorized by the city within the corporate limits of the city.

### **Section B. Unauthorized disposal**

It shall be unlawful for any person to place hazardous wastes, Class I industrial wastes, radioactive wastes, liquid wastes, used oil, used oil filters, lead-acid batteries, or other prohibited materials and wastes, as currently defined by the state environmental regulatory agency for curbside collection of residential or commercial waste, or in a dumpster for industrial, commercial, or institutional collection.

Rock, concrete, scraps of building materials or other trash resulting from building or remodeling operations will not be removed by the City or its contractor. However, any person may contract with the City's franchise hauler or contractor for the disposition of

such materials at the rate included in the current franchise agreement or contract.

### **Section C. Collections**

Collections shall be made, and charges levies, in accordance with the provisions of the contract in effect at the particular time of collection.

### **Section D. Exclusion from Service**

Only under exceptional circumstances shall a resident or commercial customer be excluded from the service. A person wishing to be excluded from the service shall first apply to the service for exclusion. If exclusion is denied by the service, the person may request exclusion from the City council, whose decision shall be final. Residents and commercial businesses outside the corporate city limits of the City of Tioga are excluded from the City's solid waste collection service.

### **Section E. Exceptions**

(A) Excepted from the waste disposal service is any address where water service is supplied that is not connected to a building or structure, including but not limited to livestock operations, medians, golf courses, and gardens.

(B) For items listed as exceptions in division (A), the generator of such material shall be responsible for the disposal of the material, or may contract with a person or firm of his choosing for the removal of the material.

### **Section F. Placing of containers for collection**

(A) The pickup schedule for collection of garbage and trash within the city shall be twice a week for residential customers. To ensure collection of garbage and trash, a person occupying a residence shall place the garbage and trash containers at the curb prior to 7:00 a.m. on the scheduled garbage and trash collection day, but not earlier than 4:00 p.m. the day before the scheduled collection day or alternative day if the scheduled collection day falls on a holiday; provided that if the occupant of the residence is a disabled person, he or she may make arrangements to place the garbage and trash at the front doorstep or next to the garage door so as to be visible from the street.

(B) If the house, building, or premises from which the garbage or trash is to be collected and removed is adjacent to an alley, the owner, occupant, tenant or lessee of the premises shall be required to keep the garbage or trash container at the entrance from the alley in order that it may be easily accessible to the person collecting and removing the garbage or trash. In the event it is not practicable to collect and remove the garbage or trash from the alley, the owner, occupant, tenant or lessee of the premises shall place the container at such point as the proper agent of the city shall find and designate to be the most accessible for collecting and removing.

(C) Citizens of the City may partake in the voluntary recycle program offered by the

City. Citizens may pick up “blue bags” free of charge at City Hall and take their recyclable items to a central drop off location located at 503 North Street.

### **Section G. Collection Required; authority to collect**

(A) Every person who owns, occupies or controls any premises in the city shall have garbage and trash removal.

(B) No person shall collect garbage, trash or refuse within the city except a person, firm or corporation who has a contract or franchise with the city.

(C) No person shall collect recyclable materials from another person's commercial property, in exchange for the payment of a fee, within the city except for a person, firm or corporation who has a contract with the city or who has been issued a license from the city.

### **Section H. Pickup schedule**

The pickup schedule for collection of garbage and trash within the city shall be as specified by the City Council.

### **Section I. Charges for collection**

The charges for the collection and removal of garbage and trash in the city shall be in an amount as approved by ordinance of the City Council.

### **Section J. Mobile home park collection**

(A) The owner of a mobile home park may request curbside service for each individual housing unit for the collection of garbage, trash, yard waste and recyclables only. The garbage, trash, yard waste and recyclable materials must be generated by the tenant of the housing unit.

(B) To qualify for individual unit collection, a mobile home park must meet the following conditions.

(1) Maintain adequate pavement to withstand the regular use of trash and recycling collection vehicles.

(2) Maintain commercial waste collection service for its office.

(C) The rates for individual unit collection service shall be the residential rate multiplied by the number of available units in the park. The mobile home park shall pay the fees with the master meter water bill.

## **ARTICLE IV COMMERCIAL COLLECTION**

### **Section A. Commercial collection; minimum collection standards**

The collection and removal of garbage and trash from houses, buildings and premises used for industrial, commercial, or institutional purposes shall be made as often as necessary in order to maintain such premises free of accumulation of garbage and trash.

All food service establishments shall maintain garbage and trash collection at a frequency of not less than one (1) time each week, unless written approval from the local regulatory authority.

Garbage and trash collection from multifamily residential complexes which provide or use mechanical packers or compactors may be made one (1) time each week upon written approval of the local regulatory authority. Such approval may be revoked, denied or suspended at any time by the local regulatory authority when, in their opinion, the premises have become unsanitary due to collections less frequently than two (2) times each week.

### **Section B. Proof of service**

All new businesses may be required to provide proof of a valid collection agreement/contract with the City's solid waste contractor prior to the issuance of a certificate of occupancy. Building permit applicants for new construction, remodeling and demolition projects may be required to provide proof of a valid collection agreement/contract with the City's solid waste contractor prior to the issuance of a building permit.

### **Section C. Prevention of scattering**

Every person shall keep all trash containers closed in such a manner as to prevent the scattering of the contents thereof and to render said contents inaccessible to rodents, and other pest animals.

All food service establishments shall insure that any privately owned trash receptacles on their property are maintained to prevent the scattering of garbage and trash. At a minimum, these facilities should survey their property daily and remove any scattered materials.

All recyclables shall be stored in a manner that prevents scattering, vector breeding or harboring, or other nuisance.

The City Manager and the City Attorney are authorized to file such claims or lawsuits as might be necessary to recover actual cost of the city cleaning up or removing such waste or material against any person responsible for the depositing of the same upon public sidewalks, alleys, storm drain systems or other public property of the City.

#### **Section D. Theft of service**

It shall be unlawful for anyone to place waste or other materials, not generated at the site in an industrial, commercial or institutional container. If a complaint is made and the source of such materials are located and identified, a citation may be issued to the person or persons placing such materials in the container. Any location which has continually been found to contain hazardous materials, and which corrective or preventive actions have not been taken, shall be determined to be responsible for the proper disposal of such material.

#### **Section E. Commercial hand-load service**

A person may request commercial hand load collection service. If more than four 30-gallon containers are necessary for service, the person may utilize commercial garbage containers.

### **ARTICLE V TAMPERING REGULATIONS**

#### **Section A. Tampering with containers**

(A) A person shall not remove any item from a garbage container, trash receptacle which has been placed on the curbside of any residence or at the designated collection location of any business.

(B) A person shall not tamper with any garbage can, trash receptacle or which has been placed on the curbside of a residence or at the designated collection location of any business.

(C) The provisions (A) and (B) above shall not apply to the following.

(1) City employees who may be required to take such action in order to provide city services.

(2) Persons employed by a corporation which has a franchise or contract with the city to collect garbage or trash.

(3) To the owner of the real property on which the garbage container is placed.

### **ARTICLE VI ENFORCEMENT**

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#### **Section A. Abatement of nuisance**

In the event that a customer shall fail to comply with any part of this article, the local regulatory authority may notify such customer by letter addressed to such customer at the

customer's residential, commercial or post office address, if personal service may not be had on the customer or the customer's address is not known. The notification shall contain in brief terms the condition or conditions which exist on such customer's premises which fail to comply with any part of this article. After issuance and receipt of the notification, the City may enter upon such premises and may do such work as necessary, or cause same to be done, to abate the unlawful condition on the premises in order that the premises may comply with the requirements of this article. A statement of costs incurred by the City to abate such conditions shall be mailed to the customer and such statement shall be paid within thirty (30) days of the date of the mailing of the statement of costs.

#### **Section B. Penalty.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be fined not more than \$2,000 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

#### **SECTION 4 CUMULATIVE REPEALER CLAUSE**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on this date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

#### **SECTION 5 SAVINGS CLAUSE**

All rights and remedies of the City of Tioga, Texas are expressly saved as to any and all violations of this provision of any other ordinance affecting the City's Ordinance regarding solid waste collection which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

#### **SECTION 6 SEVERABILITY**

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the

remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

**SECTION 7**  
**PUBLICATION**

The City Secretary of the City of Tioga is hereby directed to publish in the Official Newspaper of the City of Tioga the Caption and Effective Date Clause of this Ordinance as required by Section 52.011 of the Local Government Code.

**SECTION 8**  
**ENGROSSMENT AND ENROLLMENT**

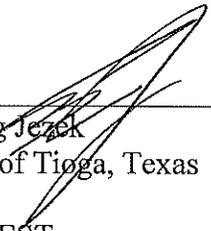
The City Secretary is hereby directed to engross and enroll this Ordinance by copying the descriptive caption in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City.

**SECTION 9**  
**EFFECTIVE DATE**

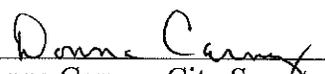
This Ordinance shall become effective from and after its date of passage in accordance with law.

**AND IT IS SO ORDAINED.**

**PASSED AND APPROVED** by the City Council of the City of Tioga, Texas this  
8 day of January, 2018.

  
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Craig Jezek  
City of Tioga, Texas

ATTEST:

  
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Donna Carney, City Secretary  
City of Tioga, Texas

[SEAL]