

Village of Webberville

ORDINANCE No. 2006 - 04

SOLID WASTE SERVICES CONTRACT AND FRANCHISE ORDINANCE

AN ORDINANCE OF THE VILLAGE OF WEBBERVILLE, TEXAS, GOVERNING PROVISION OF SOLID WASTE SERVICES WITHIN THE CORPORATE LIMITES OF THE VILLAGE; REQUIRING THAT EACH SOLID WASTE MANAGEMENT PROVIDER DOING BUSINESS IN THE VILAGE ENTER INTO A SOLID MANAGEMENT CONTRACT AND FRANCHISE AND PROVIDING FOR THE FOLLOWING: ENFORCEMENT, INCLUDING FINE NOT TO EXCEED \$2000 OR CIVIL PENALTY NOT TO EXCEED \$1,000 PER VIOLATION; REPEALER; SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING

WHEREAS, pursuant to Chapters 362, 363, and 364, Health & Safety Code, a municipality may contract for the supply, collection, transportation, management, and disposal of solid waste; and

WHEREAS, such contracts may provide that a public agency or a private contractor that contracts with a municipality to provide solid waste services has the right to use the streets, alleys, and public ways and places in the municipality during the term of the contract; and

WHEREAS, such contracts may provide for fees, rates, charges, rentals or other amounts to be paid to the municipality; and

WHEREAS, such contracts may, but are not required to, grant an exclusive franchise, or agreement, for the provision of solid waste services within the municipality; and

WHEREAS, a municipality may enforce its grant of a franchise for solid waste collection and transportation services within its territory; and

WHEREAS, pursuant to the laws of the State of Texas and its inherent police powers, the Village Commission may establish reasonable regulations governing the collection, transport, management, and disposal of solid waste in the Village:

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF WEBBERVILLE, TEXAS, THAT:

The foregoing recitals are adopted and incorporated herein for all purposes.

FRANCHISE AND CONTRACT REQUIRED

Before a person, company, corporation, partnership, public agency, or other entity may provide solid waste collection, transport, management, or disposal services within the corporate limits of the Village of Webberville, such person, corporation, partnership, public agency or other entity must enter into a Solid Waste Contract and Franchise in substantially the same form as that attached hereto as Exhibit "A" and incorporated herein for all purposes.

ENFORCEMENT

A. Civil and Criminal Penalties

The Village shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

B. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

C. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the Village's right to bring a civil action to enforce the provisions of this Ordinance, with each day constituting a separate occurrence, and to seek remedies as allowed by law, including, but not limited to the following:

- (1) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
- (2) a civil penalty up to one thousand dollars (\$1,000.00) a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
- (3) other available relief.

SEVERABILITY

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

REPEALER

Any ordinance or portion of an ordinance in conflict with the provisions of this Ordinance is hereby repealed to the extent of such conflict.

EFFECTIVE DATE


This Ordinance shall take effect immediately from and after the date of passage and publication as may be required by law.

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. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this the 9th day of August, 2006 by a vote of 3 (ayes) to 0 (nays) to 0 (abstentions) of the Village Commission of the Village of Webberville, Texas.

VILLAGE OF WEBBERVILLE



Hector Gonzales, Mayor

ATTEST:



Glynda Moon Village Clerk

APPROVED AS TO FORM:

Alan J. Bojorquez, Village Attorney