

## ORDINANCE NO. 2003-70

**AN ORDINANCE OF THE TOWN OF TALTY, TEXAS, ADOPTING REGULATIONS RELATING TO THE COLLECTION OF SOLID WASTE; PROVIDING REGULATIONS FOR THE COLLECTION OF MUNICIPAL SOLID WASTE FROM CUSTOMERS WITHIN THE TOWN; REQUIRING A PERMIT AND AGREEMENT FOR THE USE OF THE TOWN STREETS TO CONDUCT SUCH BUSINESS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND, PROVIDING AN EFFECTIVE DATE.**

**WHEREAS** the Board of Aldermen of the Town of Talty finds and determines that a public need exists to regulate the collection of solid waste in the Town's limits in order to protect the public streets and provide for the general health, safety and welfare of the citizens, Now, Therefore

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF TALTY, TEXAS:**

**SECTION 1.** That the following provisions shall be and are hereby adopted as the regulations of the Town of Talty, Texas, providing for the collection of solid waste.

### **SOLID WASTE COLLECTIONS**

#### **Section 1. Definitions**

Unless otherwise noted herein, the following terms shall be defined as follows:

***Town*** means the Town of Talty.

***Collector*** means any person, corporation, partnership or similar entity that contracts for valuable consideration to pick up or collect municipal solid waste on a regular basis from any collection point within the corporate limits of the Town of Talty.

***Municipal solid waste*** means solid waste resulting from or incidental to municipal, community (residential), commercial, institutional, and recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid

waste other than industrial solid waste as defined by state or federal law

## **Section 2. Permit and Franchise Required**

(a) No Collector shall collect any municipal solid waste within the corporate limits of the Town without first applying for and obtaining a permit to do so from the Mayor or his/her designee. Such permit shall be on such forms as the Town may determine. An annual permit fee in the amount of \$250 is due and payable at the time of application for a permit. It shall be unlawful for any person, firm or corporation to collect municipal solid waste or to engage in the business of municipal solid waste collection without first having been issued a permit to do so from the Town.

(b) In addition to the foregoing permit requirement, any person, firm or corporation collecting solid waste from any residence within the Town shall first enter into a right-of-way use agreement with the Town. Said agreement shall be on such terms and conditions as the parties may mutually agree. The Town may determine that such agreement may be exclusive or non-exclusive.

(c) No Collector shall allow any municipal solid waste to spill or fall from the Collector's equipment within the corporate limits of the Town. In the event that spillage should occur, the Collector shall completely remove such spillage within twenty-four (24) hours of notice of spillage occurrence.

(d) No Collector shall cause damage, beyond normal wear and tear, to any street or roadway within the Town. In the event the Collector causes damage to any street or roadway within the Town, the Collector shall be given written notice to immediately cause such damage to be repaired under the supervision of the Town engineer. Such notice shall provide that in the event Collector does not acknowledge responsibility for making such repairs within seven (7) days of notice, a hearing will be held by the Board of Aldermen on the question of responsibility for such damage. If at such hearing the Board finds that the damage was caused by Collector and such damage was beyond normal wear and tear, the Board of Aldermen may request Collector to cause such damage to be repaired under the supervision of the Town inspector and if such damage is not repaired within the time stated the Board of Aldermen may within its sole discretion terminate Collector's franchise and right to use the public streets within the Town to carry on its business.

(e) All Collectors shall clearly mark all collection vehicles with the Collector's name, address and telephone number. All collection vehicles used by Collectors to collect municipal solid waste within the Town shall be no larger than a "single axle" type, and shall not exceed 25,000 pounds in weight, unless specific written approval is granted by the Board of Aldermen.

Collector must use trucks and equipment meeting the approval of the Town that will prevent spillage, and damage to the streets and ways used by such trucks and equipment. Collector shall also abide by any Town regulations with regard to the placement of collection containers if it becomes necessary to establish such regulations.

(f) Collector shall provide the Town with a certificate of insurance showing general public and motor vehicle liability coverage with limits of at least \$500,000.00 per person / \$1,000,000.00 per accident / \$100,000.00 property damage. Such policies shall name the Town as an additional insured and shall contain provisions requiring that the Town be notified within ten (10) days of any cancellation or termination of the policy. The foregoing additional insured requirement and the ten (10) day notice requirement shall be shown on the face of the certificate submitted by Collector. Collector shall defend, indemnify, and hold Town and each of its officers and employees harmless from any and all suits, actions, claims, losses or damages of any character and from all expenses incidental to the defense of such suits, actions or claims based on or arising out of any injury, damage, loss, disease, sickness, or death of any person or persons, or any damages to any property caused by any act or omission of Collector or its officers, agents, servants, employees or anyone else under Collectors direction and control, and arising out of, occurring in connection with, resulting from, or caused by the performance or failure of performance of any work or services under the collection agreement or conditions created by the performance or non-performance of said work or services.

(g) No Collector shall collect any municipal solid waste within the corporate limits of the Town without first obtaining and holding all other permits or licenses required by any other governmental agency or political subdivision having jurisdiction over Collector's operations, including but not limited to the Texas Commission on Environmental Quality. Collector must be duly licensed or permitted to deposit municipal solid waste at or in a landfill regulated and approved by the proper State agency.

### **Section 3 Duty of Owners, Occupants to Maintain Premises**

It shall be the duty of every person owning, controlling, managing, operating, leasing, renting or occupying any premises where municipal solid waste, garbage and/or trash accumulates to:

(a) Provide and maintain portable containers for the placement of garbage and/or trash. Such containers may consist of galvanized iron, tin or other suitable metal or plastic cans with two handles and a tight fitting cover with a handle for removal, or such other containers as may be approved by the Town Council. Garbage and/or trash shall be placed within plastic or treated paper bags which shall then be placed within the appropriate approved container. The capacity of such containers shall be not less than twenty (20) nor more than ninety-five (95) gallons. Each

person must provide a sufficient number of such containers to take care of garbage and/or trash in relation to the individual needs of the users.

(b) Maintain containers in a sanitary condition and keep lids on containers at all times to prevent flies and other insects from coming in contact with the contents.

(c) Gather any and all garbage and/or trash from over their premises and place said garbage and/or trash in these containers and maintain and keep the area in and around the garbage containers clean and in a sanitary condition at all times.

(d) If curbside service is used, locate the containers at curbside on the street of the premises where most convenient to the collectors, no earlier than 6:00 A.M., on the day of scheduled collection. Such containers shall be removed from the curbside location and out of view from the street no later than 7:00 P.M., on the day of scheduled collection.

**SECTION 2.** That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinances of the Town as a whole.

**SECTION 3.** That any person, firm or corporation violating any of the provisions or terms of this ordinance as amended hereby shall be deemed guilty of a misdemeanor and subject to a penalty as provided for in the Code of Ordinances, and upon conviction shall be punished by fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense, and each and every day such violation shall continue shall constitute a separate offense.

**SECTION 4.** That this ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provide.

**DULY ADOPTED** by the Board of Aldermen of the Town of Talty, Texas on the 11th day of November, 2003.

APPROVED:

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MAYOR

ATTEST:

\_\_\_\_\_  
TOWN SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
TOWN ATTORNEY

(57975)

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MAYOR

ATTEST:

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TOWN SECRETARY