

ORDINANCE NO. 0-2008-92

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 16, "SOLID WASTE DISPOSAL REGULATIONS", ARTICLE I, "SOLID WASTE DISPOSAL REGULATIONS", OF THE CODE OF ORDINANCES, CITY OF TYLER, TEXAS, BY ADOPTING A MONTHLY \$2.00 SURCHARGE FOR SOLID WASTE CUSTOMERS NOT RECEIVING AUTOMATED SOLID WASTE COLLECTION SERVICES FOR RESIDENTIAL UNITS; AND ALSO ADOPTING A FUEL RECOVERY FEE TO RECOVER THE INCREASE IN FUEL COSTS ASSOCIATED WITH SOLID WASTE COLLECTION BY SOLID WASTE DEPARTMENT VEHICLES; ESTABLISHING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent by implication or otherwise, the municipality from exercising the authority incident to self-government; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of

Texas, and that all such powers, whether express or implied, shall be exercised and enforced, in the manner prescribed by the Charter, and when not prescribed by the Charter, in such manner as shall be provided by ordinances and resolutions of the City Council; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, City Code Chapter 16 sets forth solid waste regulations; and

WHEREAS, City Code Section 16-13 establishes certain fees associated with solid waste regulations; and

WHEREAS, it is important to amend City Code Section 16-13 to adopt a \$2.00 surcharge for those Solid Waste customers that do not receive Automated Service for Residential Units; and

WHEREAS, it is important to amend City Code Section 16-13 to adopt a new Fuel Recovery Fee to recover the increase in fuel costs associated with solid waste collection by Solid Waste Department vehicles;

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

PART 1: That Tyler City Code Chapter 16, "Solid Waste Disposal Regulations", Article I, "Solid Waste Disposal Regulations", by amending Section 16-13 to read as follows:

Sec. 16-13. Fees

All fees listed in this section are subject to street use fees and sales tax. The following are the fees for collection of solid waste:

a. Subsections 1 through 5.....No Changes

6. For Solid Waste customers who do not receive Automated Service for Residential (i.e., do not have carts) -\$2.00 per month (effective January 1, 2009). This surcharge shall not apply to Packout or Driveout customers. (Ord. No. 0-2008-92; 6/23/08)

b. No changes....

c. No changes...

d. No changes...

e. Fuel Recovery Fee:

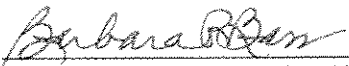
To recover the increase in fuel costs associated with solid waste collection by Solid Waste Department vehicles, a fuel recovery fee is hereby established. Said fee shall be adjusted monthly, and shall be based upon adding .05 percent (.05%) for every cent that the average price of diesel fuel rises above \$2.77 per gallon, or decreasing by .05 percent (.05%) for every cent that the average price of diesel fuel decreases but remains above \$2.77 per gallon.

(Ord. 0-2001-43, 9-5-2001) (Ord. No. 0-2003-55, 10/22/03) (Ord. No. 0-2006-92, 10-24-2006) (Ord. 0-2007-111, 9/26/07) (Ord. No. 0-2008-92; 6/23/08)

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which is expected to be July 25, 2008.

PASSED AND APPROVED this 23rd day of July, A. D., 2008.


BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK

APPROVED:


JERRY C. SANDERS, CITY ATTORNEY

