

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 12.5 “, ARTICLE VIII “SOLID WASTE AND RECYCLING”, OF THE CODE OF THE CITY OF FORT WORTH (2015), AS AMENDED, BY AMENDING DIVISION 1 “GENERAL PROVISIONS”, SECTION 12.5-800 TO INCLUDE A DEFINITION FOR “NON CITY WASTE”; AMENDING DIVISION 4 “DEPOSITS, RATES AND COLLECTION”, BY ADDING SECTION 12.5-844 “NON CITY WASTE LANDFILL ENVIRONMENTAL FEE”; MAKING THIS ORDINANCE CUMULATIVE OF PRIOR ORDINANCES; REPEALING ALL ORDINANCES AND PROVISIONS OF THE FORT WORTH CITY CODE IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City owns the Southeast Landfill located at 6900 Dick Price Road, Fort Worth, Texas 76060 permitted by the Texas Commission on Environmental Quality for the disposal of Municipal Solid Waste; and

**WHEREAS**, on or about January 28, 2003, the City entered into an Agreement to Lease and Operate the Southeast Landfill with Allied Waste Systems, Inc. d/b/a Fort Worth Southeast Landfill (hereinafter, “Republic Services”) known as City Secretary Contract No. 28336 (the “Lease”); and

**WHEREAS**, the Lease allows for Republic Services to accept Non City Waste for disposal at the Landfill and assess a Tipping Fee to the hauler; and

**WHEREAS**, Section 7.03 of the Lease, as amended, allows the City to pass through a charge when enacted by the City in its governmental capacity through Republic’s Tipping Fee; and

**WHEREAS**, the Landfill has a permitted capacity of 38,558,000 cubic yards; and

**WHEREAS**, on September 30, 2020, the City’s consultant, Burns & McDonnell submitted a report projecting that the Landfill’s remaining capacity as of January 1, 2021 to be 19,151,027 cubic yards; and

**WHEREAS**, Burns & McDonnell recommended the City enact a landfill surcharge to help meet the financial burden on the City’s residents to address the future need of disposal of Solid Waste; and

**WHEREAS**, it has been determined that the majority of waste being disposed of at the Landfill is “Non City Waste,” as defined below (which may or may not be generated within the City of Fort Worth); and

**WHEREAS**, the City requires those non City Collector, as defined by Section 12.5-800 of the City Code, haulers who transport or collect municipal solid waste within the City limits to enter into a Grant of Privilege Agreement and obtain a vehicle hauling permit through City Code Sections 12.5-850 through 12.5-863; and

**WHEREAS**, the Grant of Privilege fee and rates collected from the City’s residents help to address the needs and cost of the City’s Solid Waste disposal program; and

**WHEREAS**, those haulers who utilize the Southeast Landfill by disposing of Solid Waste but do not have a current, valid Grant of Privilege or hauling permit do not contribute to the City’s cost of providing for disposal of Solid Waste in the same manner as its residential rate payers and Grant of Privilege haulers; and

**WHEREAS**, the City seeks to equalize the burden of addressing the future needs of disposal of Solid Waste between those who utilize the Southeast Landfill; and

**WHEREAS**, the City Council hereby finds that addressing the future need for disposal of Solid Waste for its residents is a governmental function; and

**WHEREAS**, the City Council hereby further finds that implementing a Landfill Environmental Fee (surcharge) to Non City Waste is a necessary governmental action.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH:**

**SECTION 1.**

That Section 12.5-800, “Definitions”, Division 1 “General Provision”, Article VIII “Solid Waste and Recycling”, of Chapter 12.5 of the Code of the City of Fort Worth (2015), as amended, is further amended to include the definition of “Non City Waste” as follows:

**NON CITY WASTE.** Solid Waste that is not collected through the City’s household collection services as provided for in Section 12.5-821 or the City’s commercial cart service provided for in Section 12.5-830 by the City’s Collector.

**SECTION 2.**

That Section 12.5-844, “Landfill Environmental Fee”, shall be enacted and added to Division 4, “Deposits, Rates and Collection”, Article VIII “Solid Waste and Recycling”, of Chapter 12.5 of the Code of the City of Fort Worth (2015), as amended, as follows:

**12.5-844 NON CITY WASTE LANDFILL ENVIRONMENTAL FEE.**

All persons disposing of Non City Waste at the Southeast Landfill who do not have a current, valid Grant of Privilege Agreement with the City pursuant to Section 12.5-850 and/or do not possess a current, valid hauling permit pursuant to Section 12.5-857 shall pay a Landfill Environmental Fee as set by the City Council, which shall not exceed \$5.00 per ton. The Landfill Environmental Fee shall be collected with the tipping fee assessed by the operator of the Southeast Landfill.

**SECTION 3.**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

**SECTION 4.**

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 shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 5.**

This ordinance shall take effect on January 1, 2020.

APPROVED AS TO FORM AND LEGALITY:

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Christa R. Lopez-Reynolds  
Sr. Assistant City Attorney

ADOPTED:\_\_\_\_\_