ORDINANCE NO. 2021-006

AN ORDINANCE OF THE CITY OF CLUTE, BRAZORIA COUNTY, TEXAS, CONTAINING A PREAMBLE; AMENDING CHAPTER 94 – SOLID WASTE, OF THE CODE OF ORDINANCES OF SAID CITY; AMENDING SECTION 94-1, DEFINITIONS, INCLUDING A NEW TERM OF GREEN WASTE, 94-4, PROVIDING FOR COLLECTION OF GREEN WASTE; AND 94.8 FEES; PROVIDING A SEVERANCE CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING THAT THE DESCRIPTIVE CAPTION OF THIS ORDINANCE SHALL BE PUBLISHED FOR TWO CONSECUTIVE DAYS IN THE BRAZOSPORT FACTS; AND PROVIDING AN EFFECTIVE DATE FOR THIS ORDINANCE.

WHEREAS, heretofore, the City Council of the City of Clute as adopted Chapter 94 of the Code of Ordinances of the City of Clute, Texas, dealing with garbage and trash disposal; and,

WHEREAS, the City Council seeks to make collection of tree, bush, and shrubbery trimmings more efficient, cost-effective, and convenient for citizens; and,

WHEREAS, the City Council finds that the creation of a definition of "Green Waste" and provision for the orderly and efficient collection of said waste, is in the best interest and to the benefit of the general health, safety and welfare of the citizens of the City of Clute, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLUTE, BRAZORIA COUNTY, TEXAS:

FIRST, the findings of the council in the preamble above are found to be true and correct;

SECOND, Chapter 94 – Solid Waste, of the Code of Ordinances shall be amended to read as follows:

Sec. 94-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City sanitary landfill means such place as designated and used by the city as its sanitary landfill, whether or not owned by the city.

Commercial unit means any structure primarily designed for or used by humans other than a dwelling unit.

Disposable bags includes plastic bags, heavy-weight paper bags or bags from trash compactors, but does not include grocery bags.

Dwelling unit means one room, or two or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental, or lease on a weekly, monthly or longer basis, containing independent cooking and sleeping facilities, and physically separated from any other dwelling unit that may be contained in the same structure.

Family means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family.

Full week means a week in which the Wednesday of such week and the preceding Monday are in the same calendar month.

Garbage means the byproduct of animal or vegetable foodstuffs resulting from the handling, preparation, cooking and consumption of food, or other matter subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies, insects or animals.

Green Waste means tree, bush, and shrubbery trimmings not to exceed 7 inches in diameter for each individual item branch.

Gross weight means the combined weight of a disposable bag or other solid waste container and its contents.

Household trash means every waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter of any kind usually attendant to housekeeping other than garbage.

HUD-Code manufactured home means a structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems.

Junk means all worn-out, worthless or discarded material, including but not being limited to rusting or corroding iron or other metal, glass, paper cordage and/or any unsightly waste or discarded materials other than trash and household trash.

Multiple-family dwelling means a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Oversized load means accumulations of more than three cubic yards of solid waste or more than 12 bags of leaves or grass clippings placed for collection.

Premises means each commercial unit, each single-family dwelling, each two-family dwelling, each multiple-family dwelling, and each mobile home park.

Recreational/travel trailer means a vehicular type unit primarily designed as temporary living quarters for recreational camping or travel use that either has its own motive power or is mounted on or towed by another vehicle. Basic entities are travel trailers, camping trailers, truck campers and motor homes.

Recyclable material means any aluminum, glass or plastic can, bottle or container or other material currently being collected by any person for recycling pursuant to a contract with the city or with the permission of the city manager.

Reusable waste material container means a container having a capacity of not more than 20 gallons, equipped with suitable handles and tightfitting covers, designed to be used more than once in the collection of garbage, but does not include a waste material container provided by the city in connection with the container service authorized by section 94-8.

Service month means the period of time between the 15th day of one month and the 15th day of the next succeeding month during which collection service is provided by the city under the terms of this chapter.

Single-family dwelling means a detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

Solid waste means any accumulation consisting of garbage, household trash, junk, trash **and Green Waste.**

Solid waste disposal service means any system designed or used for the collection, conveyance disposal of solid waste.

Trailer or *mobile home* means a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems. "Trailer or mobile home" includes mobile homes, HUD-Code manufactured homes and recreational/travel trailers.

Trash means all garbage, including but not limited to furniture, bedding and appliances but excluding household trash.

Two-family dwelling means a detached residential building containing two dwelling units, designed for occupancy by not more than two families.

Waste material means garbage, household trash, junk, trash, tree, bush and shrubbery trimmings, **dry leaf rakings, Green Waste**, or any other thing commonly accepted as being waste material.

Waste material container means any container designed for use in the collection and disposal of waste material pursuant to the terms of this chapter and includes disposable bags, trash cans or any other container designed for the collection and disposal of such waste, if such container is permissible to use pursuant to the terms of this chapter.

Sec. 94-4. - Waste material containers and collection.

(a) *Containers provided by city.* A waste material container provided by the city in connection with the container service permitted at the city's option pursuant to the provisions of section 94-8 shall be of a type approved by the city manager, shall have a capacity of not more than four cubic yards, and shall be kept in a clean, neat and sanitary condition at all times.

(b) *Containers for garbage.* The owner, tenant, lessee or occupant of any premises not participating in the container service authorized by section 94-8 shall provide as many disposable bags for use in the collection and disposal of garbage accumulated on such premises as may be necessary to prevent the accumulation of garbage outside of a disposable bag. Each disposable bag shall have a capacity of not less than five gallons nor more than 20 gallons. The accumulation of garbage shall be placed in such disposable bags and the top of the bags securely tied. The total weight of any such bag and its contents shall not exceed 50 pounds. Garbage and household waste will be picked up from garbage cans having a secure lid if the garbage or household waste that has been generated at a single-family or two-family dwelling is contained in a disposable bag securely tied and the lid is kept on the can at all times after it has been placed for collection. Any can that has ragged or sharp edges or any other defects likely to hamper or injure the person collecting the contents thereof or the public generally shall be regarded as not serviceable. Any can that has been identified by the public works director as not being serviceable shall be tagged and may no longer be used. Any tagged can which is not replaced with a serviceable can by the person using such can shall be treated as refuse and removed by the public works department. All cans must be removed from curbside to a location not visible from the street by 12:00 midnight of the day of collection.

(c) *Placement of solid waste for collection.* The owner, tenant, lessee or occupant of any premises shall place and prepare all solid waste for collection as follows:

(1) *Placement of solid waste for twice weekly residential collection.* Twice weekly residential collection includes garbage, **and** household trash, which shall be placed and prepared as follows:

a. Garbage and/or household trash shall be placed in disposable bags and may not be placed, either alone or mixed with any other solid waste, in any other type of container.

b. Small sticks, **leaf rakings**, and small objects shall be placed either in disposable bags or in trash cans having a capacity of not less than ten nor more than 30 gallons.

c. Accumulations of newspapers, books, magazines or printed material shall be bundled, but each such bundle shall weigh less than 50 pounds.

d. Paper boxes shall be crushed or broken down and bundled, but each such bundle shall weigh less than 50 pounds.

(2) *Placement of solid waste for monthly collection.* Monthly collection items, which include junk, **Green Waste** or other heavy or bulky items that require special handling, shall be placed in an orderly manner requiring only a minimum of time for collection and shall not be mixed with items listed in subsection (c)(1) of this section that are placed for twice monthly collection**. Further, each separate category below shall not be mixed and must be segregated for individual collection.** The following items placed for monthly collection shall be placed as follows:

a. Any appliance that has an airtight snap lock or door shall not be placed for collection without first removing the lock or door from such appliance.

b. **Green Waste**

1. <u>Cut by Commercial Worker of Contractor</u>

Green Waste cut by a landscape or tree service contractor or other commercial worker, or resulting from land being cleared will not be collected by the city and must be disposed of by such contractor or worker.

2. <u>On site processing by the City</u>

Upon request by the property occupant, the City may process Green Waste, (waste less than 7" in diameter) on sight using a mobile chipper, and allowing the property occupant to use the processed material on site.

3. <u>Over-Sized Material</u>

The City shall not collect or process any tree, bush, or brush cuttings in excess of 7" diameter and the property occupant shall not put out over-sized material for collection. The property occupant or the contractor or commercial worker that generated over-sized waste, is responsible to properly remove said waste within 10 days of its production, from the property at their expense.

c. Building materials, such as lumber, brick, plaster, gutters or other substances accumulated as a result of repairs or additions to existing buildings, construction of new buildings or demolition of existing structures done by contractors will not be collected by the city and must be disposed of by such contractors.

d. Monthly collections will be accomplished by zones, which are defined as follows:

Zone (1) includes the area east of State Highway 288B.

Zone (2) includes the area west of State Highway 288B and north and east of a line beginning at the intersection of State Highway 288B and Main Street; then southwest on Main Street to Hargett Street; thence west on Hargett Street to Lazy Lane; thence north on Lazy Lane to its intersection with Brazoswood Drive; thence west on Brazoswood Drive to its intersection with the easterly right-of-way line of Dixie Drive.

Zone (3) includes the area west of zone (2) and south of Brazoswood Drive and the area west of zone (4).

Zone (4) includes the area south of zone (2) between State Highway 288B and Main Street.

e. Monthly collection schedules are:

Zone (1): First full week of each month.

Zone (2): Second full week of each month.

Zone (3): Third full week of each month.

Zone (4): Fourth full week of each month.

(d) *Containers for solid waste.* If a container being used pursuant to subsection (c) of this section is a trash can, it must be of a type approved by the city manager, made of suitable material, maintained in good condition and kept in a clean, neat and sanitary condition at all times. A trash can that does not conform to the provisions of this subsection or that may have developed ragged or sharp edges or any other defect that may hamper or injure the person collecting its contents shall be promptly replaced upon notice by the city manager or his authorized agent to the owner, tenant, lessee or occupant of the premises on which such trash can has been placed for collection.

(e) *Refusal of service.* The city manager or his duly authorized agent shall have the authority to refuse solid waste collection service to any owner, tenant, lessee or occupant for failure to comply with any provisions of this section.

Sec. 94-8. - Fees.

(a) *Residential.* The fees for collection and disposal of waste material at residences shall be as follows:

1) The charge for collection at ground level and not more than five feet in distance from the side of the street or alley from which collection is made shall be $20.95 per family per month, whether collected at single-family dwelling units, two-family dwelling units, multiple-family dwelling units not electing commercial service as hereinafter provided, or trailers not within the provisions of subsection (a)(2); however, the charge of $20.95 per family per month with respect to two-family dwelling units, multiple-family dwelling units and trailers not within the provisions of subsection (a)(2) shall be based upon a central location being provided at such dwelling unit or on the public street or alley adjacent to which a trailer park not within the provisions of subsection (a)(2) is located, so that one stop may be made for such pickup for all such dwelling units and trailers. Provided, further, that where no actual central location is provided, such dwelling units and trailers shall be charged the commercial rate provided in subsection (b).

2) The charge for collection at ground level and not more than five feet in distance from the side of the roadway from which collection is made shall be $20.95 per trailer for each trailer located in a mobile home park electing to come within the provisions of subsection (b), with the charge for each trailer being levied against and payable by the owner or operator of such mobile home park.

3) The charge for the collection of solid waste determined to be an oversize load shall be $35.00; however, where such oversize load exceeds ten cubic yards, an additional $50.00 shall be charged. Such charges will be assessed on the next city utility bill.

4) The fees charged for the collection of Green Waste shall be determined as follows:

i. If the Customer desires the material to be mulched on-site and deposited the charge shall be made using the following formula:

FEMA Hourly Equipment Rate + Labor Rate for two (2) staff/ operator X the number of hours required to complete the project as estimated by the Supervisor.

Example: if a Customer has 9 cubic yards of material to be mulched on site and the Supervisor estimates that the work will require 2.5

hours to complete the formula would work like this (using current FEMA Rates):

$22.43 (FEMA Hourly Rate for Chipper x 2.5) + $80.75 (hourly labor rate X 2 X 2.5) = $103.18

ii. If the Customer desires the material be removed from the site, the charge shall be made using the following formula:

FEMA Hourly Equipment Rate Equipment the vehicles used to load and transport the material X the number of hours required to complete the project as estimated by the Supervisor.

Example: if a Customer has 9 cubic yards of material to be removed on site and the Supervisor estimates that the work will require 1.25 hours to complete the formula would work like this (using current FEMA Rates):

$53.22 (FEMA Hourly Eq. Rate for Boom) + $40.36 (FEMA Hourly Rate for (FEMA Hourly Eq. Rate for Flatbed) = $93.58

iii. In all instances the Solid Waste Supervisor shall provide a written quote prior to the removal/ destruction of all eligible Green Waste.

THIRD, this ordinance is cumulative of and in addition to all other ordinances of the City of Clute, Texas, on the same subject and all such ordinances are hereby expressly saved from repeal. Provided, however, where this ordinance and another ordinance conflict or overlap, whichever imposes the more stringent regulations or penalties, as the case may be, shall prevail.

FOURTH, in the event any section or provision · of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

FIFTH, the City Clerk of the City of Clute, Texas shall cause the descriptive caption of this ordinance to be published for two consecutive days in the Brazosport Facts, the official newspaper of the City of Clute, Texas.

SIXTH, this ordinance shall take effect and be in force from and after its descriptive caption is published as provided above

READ, PASSED, AND APPROVED this the 11th day of March, 2021.

_____
Calvin Shiflet, Mayor,
City of Clute, Texas

ATTEST:

_____
Rosie Poitevint, City Clerk,
City of Clute, Texas

APPROVED AS TO FORM ONLY:

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Christopher Duncan, City Attorney,
City of Clute, Texas