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

**AN ORDINANCE AMENDING CHAPTER 50 OF THE CODE OF ORDINANCES OF THE CITY OF NOME RELATING TO THE COLLECTION OF SOLID WASTE, GARBAGE AND REFUSE FROM PREMISES WITHIN THE CITY; PROVIDING REGUALTIONS FOR THE COLLECTION OF GARBAGE, TRASH AND RECYCLABLE MATERIALS; PROVIDING FOR THE ISSUANCE OF A LICENSE TO COLLECT RECYCLABLE MATERIALS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCE; PROVIDING A PENALTY CLAUSE FOR VIOLATIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** the City of Nome is a home rule city acting under its charter adopted by the electorate to Article IX, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS,** the Texas Legislature has found that control of solid waste collection and disposal is the responsibility of local governments; and

**WHEREAS,** the State law mandates that each municipality shall assure that municipal solid waste collection and disposal services are provided to all persons within its jurisdiction either by the municipality or a private person; and

**WHEREAS,** the State law evidences a clear articulation of State policy to allow municipalities to regulate competition in the providing of municipal solid waste services in order to insure the most effective and efficient regulation, collection and disposal of solid waste and to protect the public health, safety and welfare; and

**WHEREAS,** the City of Nome, Texas deems it appropriate to adopt amendments to Chapter 50 of the Code of Ordinances to provide regulations for the collection of garbage, refuse and solid waste within the to protect public health, safety and well-being of all citizens by eliminating possible germ breeding materials and conditions which may contribute to the spreading of diseases and infections to humans and animals, and to provide a means for the controlled and safe handling, collection, transporting and disposal of municipal solid waste within the City;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NOME, TEXAS:** That Chapter 50 of the Code of Ordinances of the city Nome is hereby amended to read as follows:

**GARBAGE COLLECTION ORDINANCE**

**ARTICLE I**

**DEFINITIONS**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BRUSH.*** Parts or all of trees and shrubs.

***BULKY WASTE.*** Bundled brush, stacked brush, fencing, appliances and other waste materials with weights or volumes greater than those allowed for permanent containers, but specifically excluding unacceptable waste.

***BUNDLED BRUSH.*** Brush securely tied together to form an easily handled package not exceeding four (4) feet in length or fifty (50) pounds in weight.

***COMMERCIAL CONTAINER.*** Metal containers supplied by CONTRACTOR affording capacity to service a customer so as to prevent spillage, unsightly and unsanitary conditions.

***CURBSIDE SERVICE.*** Garbage, trash and recyclable materials to be picked up by the CONTRACTOR which will be located at the curbside of the street bearing the customer’s address.

***CUSTOMER.*** Any owner, occupant, tenant or person otherwise in control of premises in the City on which garbage and trash are accumulated and from which the same is removed or required to be removed pursuant to the terms if this article.

***DEBRIS.*** Automobile frames, loose brush, and dirt, concrete, rocks, bricks, lumber, plaster, sand, gravel, or other waste construction materials, unless the amount of these materials is insignificant.

***FENCING.*** Wooden fence panels cut into four (4) feet by six (6) feet sections. Loose pickets must be tied and in bundles weighing no more than fifty (50) pounds in weight per bundle.

***GARBAGE.*** Solid waste that is putrescible animal and vegetable waste materials from the handling, preparation, cooking or consumption of food, including waste materials from markets, storage facilities and the handling and sale of produce and other food products.

***HAZARDOUS WASTE.*** All fecal material, oil, sludge, and any radioactive, pathological, toxic, explosive, flammable, combustible, acidic or volatile materials, or other hazardous or improper wastes, including solid wastes regulated as hazardous under the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 1002, *et. Seq.*, or regulated as toxic under the Toxic Substance Control Act, 15 U.S.C.A. Section 2601, *et. Seq.*, and regulations promulgated thereunder or other applicable Federal or State law concerning the regulations of hazardous or toxic wastes.

***LANDFILL PROHIBITED WASTE MATERIALS.*** Non-hazardous materials prohibited from disposal at Type I landfills pursuant to TCEQ regulations, 30 TAC, Section 330.5. Prohibited waste materials include, but are not limited to, tires, used oil filters, and PCBs or PCB containing equipment.

***LIQUID WASTE.*** For this purposes of this article, means any waste material that is determined to be or contain “free liquid” by a paint filter test (EPA METOHD 9095)

***LOCAL REGULATORY AUTHORITY.*** Any municipal officer or department of the City, designated by the City Mayor, to administer this article.

***OWNER.*** The actual fee holder of the title to residential property and does not include tenant, lessee or subleases.

***RESIDENTIAL PREMISE.*** A dwelling within the City limits occupied by a person or group of persons comprising not more than four (4) families. A residential premise may be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction; consisting of four (4) or fewer units shall be treated as a residential premise.

***RESIDENTIAL WASTE.*** Garbage and trash generated by a resident and placed curbside for the regular collection at a residential premise, but does not include unacceptable waste, debris, or bulky waste.

***SPECIAL WASTE.*** Any waste defined as Special Waste by 30 TAC §330.3 (148).

***BUNDLED BRUSH.*** Bruch cut to no more than four (4) feet in length and stacked and tied neatly at curbside.

***STABLE MATTER.*** All manure and other waste matter normally accumulated in or about a stable; or any animal, livestock, or poultry enclosure; and resulting from the keeping of animals, poultry, or livestock.

***TRASH.*** All household refuse other than Garbage, Debris, Loose Brush, and Bulky Waste; trash shall include grass, yard clippings, weeds, heavy accumulations of newspaper and magazines, recyclable materials, old clothes, and other household trash of like kind, but shall not include unacceptable waste.

***TRASH CONTAINER.*** A 90 gallon receptacle with wheels and a lid.

***UNACCEPTABLE WASTE.*** Any and all waste that is either:

1) Waste which is now or in the future becomes prohibited from disposal at a sanitary landfill by state, federal, and/or local laws and/or regulations promulgated there under; or

2) “Hazardous Waste”; or

3) “Special Waste”, as defined herein; or

4) Waste, including landfill prohibited waste materials, which is prohibited from disposal at the landfill by CONTRACTOR including tires, concrete, and bulk petroleum or chemical products or by-products; or

5) Liquid waste, as defined herein, and septic tank pumping and grease and grit trap wastes; or

6) Sludge waste, including water supply treatment plant sludge and stabilized and/or unstabilized sludge from municipal or industrial wastewater treatment plants; or

7) Dead animals and/or slaughterhouse waste, except for animal euthanized under authority and direction of CONTRACTOR; or

8) Any waste, including “special waste” as defined herein, which because of its quantity, concentration, frequency of disposal, required disposal procedures, regulatory status, or physical, chemical, infectious or other characteristics jeopardizes or may jeopardize the environmentally sound operation of the disposal site, as determined by CONTRACTOR in its sole discretion; or

9) Construction debris not generated by a residential customer; or

10) Appliances containing CFC’s that do not bear a certification tag that shows the CFC’s have been properly recovered in accordance with federal law; or

11) “Stable Matter”, as defined herein.

***UNHEALTHY OR UNSANITARY SITE.*** A site where conditions represent a threat to human health and public safety, due to accumulations of waste material or frequency of service.

***UNSIGHTLY SITE.*** A site that represents a visual blight to the surrounding area.

***YARD WASTE.*** Leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material not greater than six inches in diameter that result from landscaping maintenance. The term does not include stumps, roots or shrubs with intact root balls.

**ARTICLE II**

**GARBAGE COLLECTION**

**Section A. Placing of Refuse Containers**

It shall be unlawful for any person to deposit any garbage or trash upon or along any alley, sidewalk, street or other public or private premises except in containers as authorized by the city within the corporate limits of the city.

**Section B. Unauthorized disposal**

It shall be unlawful for any person to place hazardous wastes, Class I industrial wastes, radioactive wastes, liquid wastes, used oil, used oil filters, lead-acid batteries, or other prohibited materials and wastes, as currently defined by the state environmental regulatory agency for curbside collection of residential or commercial waste, or in a dumpster for industrial, commercial, or institutional collection.

Rock, concrete, scraps of building materials or other trash resulting from building or remodeling operations will not be removed by the City or its contractor. However, any person may contract with the City’s franchise hauler or contractor for the disposition of such materials at the rate included in the current franchise agreement or contract.

**Section C. Contractor to provide containers**

Every customer, within the city for residence, church, school, college, lodge, commercial business and other purposes shall be provided at a minimum one (1) 90 gallon receptacle of solid shape and size with wheels and a lid. Sufficient number and size, as hereinafter specified, to hold the garbage and trash that will normally accumulate on the premises.

**Section D. Specifications for containers; number**

(A) The pickup schedule for collection of garbage and trash within the city shall be once a week during the hours of 7:00 a.m. and 7:00 p.m. for residential customers. To ensure collection of garbage and trash, a person occupying a residence shall place the garbage and **Trash Container** at the curb prior to 7:00 a.m. on the scheduled garbage and trash collection day, but not earlier than 1:00 p.m. the day before the scheduled collection day or alternative day if the scheduled collection day falls on a holiday; provided that if the occupant of the residence is a disabled person, he or she may make arrangements to place the garbage and trash at the front doorstep or next to the garage door so as to be visible from the street.

(B) If the house, building, or premises from which the garbage or trash is to be collected and removed is adjacent to an alley, the owner, occupant, tenant or lessee of the premises shall be required to keep the garbage or trash container at the entrance from the alley in order that it may be easily accessible to the person collecting and removing the garbage or trash. In the event it is not practicable to collect and remove the garbage or trash from the alley, the owner, occupant, tenant or lessee of the premises shall place the container at such point as the proper agent of the city shall find and designate to be the most accessible for collecting and removing.

**Section E. Placing of containers for collection**

(A) The pickup schedule for collection of garbage and trash within the city shall be once a week during the hours of 7:00 a.m. and 7:00 p.m. for residential customers. To ensure collection of garbage and trash, a person occupying a residence shall place the garbage and trash containers at the curb prior to 7:00 a.m. on the scheduled garbage and trash collection day, but not earlier than 1:00 p.m. the day before the scheduled collection day or alternative day if the scheduled collection day falls on a holiday; provided that if the occupant of the residence is a disabled person, he or she may make arrangements to place the garbage and trash at the front doorstep or next to the garage door so as to be visible from the street.

(B) If the house, building, or premises from which the garbage or trash is to be collected and removed is adjacent to an alley, the owner, occupant, tenant or lessee of the premises shall be required to keep the garbage or trash container at the entrance from the alley in order that it may be easily accessible to the person collecting and removing the garbage or trash. In the event it is not practicable to collect and remove the garbage or trash from the alley, the owner, occupant, tenant or lessee of the premises shall place the container at such point as the proper agent of the city shall find and designate to be the most accessible for collecting and removing.

**Section F. Collection Required; authority to collect**

(A) No person shall collect garbage, trash or refuse within the city except a person, firm or corporation who has a contract or franchise with the city.

**Section G. Pickup schedule**

The pickup schedule for collection of garbage and trash within the city shall be as specified by the City Council.

**Section H. Charges for collection**

The charges for the collection and removal of garbage and trash in the city shall be in an amount as approved by ordinance of the City Council.

**Section I. Mobile home park collection**

(A) The owner of a mobile home park may request curbside service for each individual housing unit for the collection of garbage, trash, yard waste. The garbage, trash, yard waste and recyclable materials must be generated by the tenant of the housing unit.

(B) To qualify for individual unit collection, a mobile home park must meet the following conditions.

(1) Maintain adequate pavement to withstand the regular use of trash and recycling collection vehicles.

(2) Maintain commercial waste collection service for its office.

(C) The rates for individual unit collection service shall be the residential rate multiplied by the number of available units in the park.

**ARTICLE III**

**COMMERCIAL COLLECTION**

**Section A. Commercial collection; minimum collection standards**

The collection and removal of garbage and trash from houses, buildings and premises used for industrial, commercial, or institutional purposes shall be made as often as necessary in order to maintain such premises free of accumulation of garbage and trash.

**Section B. Proof of service**

All new businesses may be required to provide proof of a valid collection agreement/contract with the City’s solid waste contractor prior to the issuance of a certificate of occupancy. Building permit applicants for new construction, remodeling and demolition projects may be required to provide proof of a valid collection agreement/contract with the City’s solid waste contractor prior to the issuance of a building permit.

**Section C. Prevention of scattering**

Every person shall keep all trash containers closed in such a manner as to prevent the scattering of the contents thereof and to render said contents inaccessible to rodents, and other pest animals.

All food service establishments shall insure that any privately owned trash receptacles on their property are maintained to prevent the scattering of garbage and trash. At a minimum, these facilities should survey their property daily and remove any scattered materials.

The Mayor and the City Attorney are authorized to file such claims or lawsuits as might be necessary to recover actual cost of the city cleaning up or removing such waste or material against any person responsible for the depositing of the same upon public sidewalks, alleys, storm drain systems or other public property of the City.

**Section D. Theft of service**

It shall be unlawful for anyone to place waste or other materials, not generated at the site in an industrial, commercial or institutional container. If a complaint is made and the source of such materials are located and identified, a citation may be issued to the person or persons placing such materials in the container. Any location which has continually been found to contain hazardous materials, and which corrective or preventive actions have not been taken, shall be determined to be responsible for the proper disposal of such material.

**Section E. Commercial hand-load service**

A person may request commercial hand load collection service. If more than four 90-gallon containers are necessary for service, the person may utilize commercial garbage containers.

**ARTICLE VI**

**ENFORCEMENT**

**Section A. Abatement of nuisance**

In the event that a customer shall fail to comply with any part of this article, the local regulatory authority may notify such customer by letter addressed to such customer at the customer’s residential, commercial or post office address, if personal service may not be had on the customer or the customer’s address is not known. The notification shall contain in brief terms the condition or conditions which exist on such customer’s premises which fail to comply with any part of this article. After issuance and receipt of the notification, the City may enter upon such premises and may do such work as necessary, or cause same to be done, to abate the unlawful condition on the premises in order that the premises may comply with the requirements of this article. A statement of costs incurred by the City to abate such conditions shall be mailed to the customer and such statement shall be paid within thirty (30) days of the date of the mailing of the statement of costs.

**Section B. Penalty.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be fined not more than $2,000 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

**ARTICLE VII**

**MISCELLANEOUS PROVISIONS**

**Section A. Severability Clause**

Should any paragraph, sentence, 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 thereof, other than the part so declared to be invalid, illegal or unconstitutional.

APPROVED AS TO FORM AND LEGALITY: ATTEST:

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Kerry Abney, Mayor Angela Cook, City Clerk