

City of Houston, Texas, Ordinance No. 2007- 516

AN ORDINANCE AMENDING CHAPTER 39 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO SCREENING OF BULK CONTAINERS; CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That Chapter 39 of the Code of Ordinances, Houston, Texas, is hereby amended by redesignating Article VI thereof as Article VII and adding a new Article VI that reads as follows:

"ARTICLE VI. SCREENING OF BULK CONTAINERS

Sec. 39-101. Screening required.

(a) An owner or lessee of property shall place or maintain a bulk container so that it is not visible from the street right-of-way on the address side of the property. A bulk container located on a service drive behind a building on said property shall not be deemed visible from the street right-of-way.

(b) A bulk container shall be deemed to be visible only if it can be seen by any person who is standing at grade level on any part of the right-of-way of a public street having a right-of-way width of 40 feet or more that adjoins the address side of the property on which the bulk container is located.

(c) An owner or lessee of property may utilize a berm, building, fence, wall, gate, shrubbery, or a combination thereof, to accomplish the screening of a bulk container from view.

Sec. 39-102. Offenses.

(a) **Offenses.** It shall be unlawful for any person to:

- (1) Fail to comply with section 39-101 of this Code.
- (2) Place or cause to be placed a bulk container on private property without first obtaining the permission of the owner or person in charge of the property.

(3) Fail to maintain screening as required under this article.

(b) **Defenses.** It is a defense to prosecution under subsection (a) above that:

- (1) The bulk container is in daily actual use, exclusive of weekends, holidays, and inclement weather days, for the purpose of disposing of waste generated by the demolition or construction, or both, of improvements on the property upon which the bulk container is situated and that all building permits required for the work have been obtained.
- (2) The bulk container was placed by or upon written authority of the director on a temporary basis for a neighborhood clean-up campaign or similar temporary purpose.
- (3) The bulk container is used exclusively for the collection of recyclable materials.
- (4) There is inadequate space to locate the bulk container upon the property in a manner that complies with section 39-101 of this Code.
- (5) Placement of the bulk container on the property in a manner that complies with section 39-101 of this Code would violate any provision of:
 - a. Chapter 26 of this Code relating to off-street parking requirements;
 - b. Chapter 42 of this Code relating to planning standards;
 - c. Chapter 10 of the Building Code relating to means of egress; or
 - d. The Fire Code relating to dumpsters or fire apparatus access roads.

Sec. 39-103. Scope.

This article shall not apply to a bulk container situated upon property that is owned and maintained by a public school district or a private school.

Sec. 39-104–39-106. Reserved."

Section 2. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 3. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date, shall take effect at 12:01 a.m. on the one hundred-eightieth day next following the date of its passage and approval by the Mayor.

PASSED AND APPROVED this 25th day of April, 2007.

Bill White

Mayor of the City of Houston

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Prepared by Legal Dept. *Humaira Dummer*

KO:asw 04/18/2007

Assistant City Attorney

Requested by City Council Committee on Regulation, Development and Neighborhood Protection

L.D. File No. 0740600032001

CAPTION PUBLISHED IN DAILY COURT

REVIEW

DATE:

MAY 0 1 2007

| AYE | NO | |
|---------|---------|----------------------|
| ✓ | | MAYOR WHITE |
| •••• | •••• | COUNCIL MEMBERS |
| | | ASSIST-CITY BUSINESS |
| ✓ | | LAWRENCE |
| ✓ | | JOHNSON |
| ✓ | | CLUTTERBUCK |
| ✓ | | EDWARDS |
| | ✓ | WISEMAN |
| ✓ | | KHAN |
| ✓ | | HOLM |
| ✓ | | GARCIA |
| ✓ | | ALVARADO |
| ✓ | | BROWN |
| ✓ | | LOVELL |
| ✓ | | GREEN |
| ✓ | | BERRY |
| CAPTION | ADOPTED | |