

ORDINANCE NO. 02-2016

CITY OF DIAMOND CITY, BOONE COUNTY, ARKANSAS

AN ORDINANCE PROVIDING FOR THE REGULATION OF SOLID WASTE COLLECTION AND DISPOSAL WITHIN THE CORPORATE LIMITS OF THE CITY OF DIAMOND CITY, ARKANSAS, DECLARING AN EMERGENCY AND PRESCRIBING OTHER MATTERS RELATED THERETO.

WHEREAS, Ark. Code Ann. § 8-6-201 *et seq.* requires every municipality to have a system in place to provide for the collection and disposal of solid waste; and

WHEREAS, reasonable regulation constituting a system of collection and disposal of solid waste is necessary for the protection of the public peace, health, safety, and general welfare of the citizens of the City of Diamond City; and

WHEREAS, the City Council, after thorough consideration, desires to approve and adopt this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DIAMOND CITY, ARKANSAS:

SECTION 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:

- A. Approved Container. A container for Solid Waste approved by the Contractor and the City, properly closed shut, which will hold Solid Waste, protect it from the elements, and keep it contained for hand or mechanical dumping into collector trucks.
- B. Bulky Waste. Waste that includes furniture, appliances, metal items, larger items not normally collected from the weekly residential collection programs. Items not considered bulky waste include construction materials, tires, paint, hazardous waste, pesticides, appliances containing Freon, and any item specified as Extraordinary Materials or Excluded Waste herein.
- C. City. The City of Diamond City, Arkansas.
- D. Contractor. The sanitation company to which the City's has contracted for the collection and removal of all residential, commercial and industrial Solid Waste in the City.
- E. Extraordinary Materials or Excluded Solid Waste. Medical waste, construction and demolition waste, Hazardous Materials, body wastes, batteries, paint, items containing an engine or compressor, items containing CFCs or PCBs, dead animals, abandoned vehicles, vehicle parts, large equipment and parts thereof and any substance listed or characterized as toxic or hazardous by any applicable federal, -state or local law.
- F. Garbage. The same as defined as Solid Waste.
- G. Hazardous Materials. Wastes that are hazardous by reason of their pathological, explosive, radiological or toxic characteristics, or by virtue of their being defined as hazardous by any state or federal law or regulation.
- H. Multiple Residential Unit. A structure containing five or more dwelling units.

- i. Solid Waste. All putrescible and non-putrescible waste in solid or semisolid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, or street refuse, but excluding Yard Waste, Extraordinary Materials, Hazardous Materials and Special Materials as defined herein.
- J. Special Materials. Those bulky materials or other special wastes that are not stored in approved containers and cannot be picked up by hand.
- K. Trash. The same as and shall be defined as Solid Waste and garbage.
- L. Unit or Units. A residence, business or industry within the city that generates Solid Waste and other materials that must be disposed.
 - (1) Residential Unit. Any occupied single family residence, condominium, duplex, triplex or multi-unit dwelling place, within the corporate limits of the City, except that each single-family unit within a multiple dwelling unit shall be billed separately as a Residential Unit. A Residential Unit shall be deemed occupied when either water or domestic light and power services are being supplied hereto.
 - (2) Commercial Unit. A multiple residential unit, business, or combined units of businesses in the City that streamline waste into consolidated containers that typically generate more than two cubic yards of solid waste per week.
 - (3) Industrial Unit. An industrial unit, or combined units of industries in the City that streamline waste into consolidated containers that typically generate more than two cubic yards of solid waste per week.
- M. Yard Waste. Grass clippings, mulch, brush, tree limbs, leaves, sticks, or any other item derived from a once-living tree or plant species.

SECTION 2. AUTHORIZED COLLECTOR. All Residential Units, Commercial Units and Industrial Units shall only use the Solid Waste service that has been awarded to the Contractor by the City. Owners of Commercial Units or Industrial Units shall negotiate Solid Waste disposal services with the contractor approved by the City and shall not opt to assume the responsibility of disposal for themselves.

- A. Franchise Fee for Regular Units. The City grants to the Contractor the exclusive right and obligation to provide Solid Waste collection services for all Residential Units within the City boundaries, present and future. The terms of such exclusive franchise shall be in accordance with the provisions of any such Solid Waste Contract between the private Solid Waste Contractor and the City. No other person or entity except such Contractor shall be permitted to convey or transport Solid Waste for Units within the City. Such Contractor shall pay the City a franchise fee, which shall be set at three percent (3%) of the rate charged per Unit for the privilege of doing business in the City pursuant to such contract.
- B. Use of City Streets. The Contractor shall have the right and privilege to operate collection vehicles and equipment on such streets, public ways, rights-of-way, or easements of the City.
- C. Administration of Agreement by City. The Mayor of the City, or the Mayor's designee, shall administer this Agreement.

SECTION 3. COLLECTION. Once weekly collections are to be made under the following conditions:

- A. *Containers Required.* All Residential Units shall set out Solid Waste for collection in Approved Containers.
- B. *Location.* All collectible materials shall be placed at a location, prior to scheduled collection, which is readily accessible to the Contractor's personnel.
 - 1. *Residential.* Solid Waste Approved Containers shall be placed at a single collection point within six feet of the curb.
 - 2. *Commercial and Industrial.* Solid Waste shall be kept on the premises in approved containers and placed at a single collection point in a place near the street or alley, as approved by Contractor, readily accessible to Contractor's collection vehicles.
- C. *Frequency.* The Contractor shall furnish Solid Waste collection services in the City on a weekly basis to all Units. The Contractor shall provide the City with schedules of Residential Unit collection routes and keep such information current at all times. In the event of changes in routes or schedules that will alter the day of pickup, the Contractor shall notify each customer affected by mail and news media not less than one week prior to the change.

SECTION 4. ACCUMULATION OR PLACEMENT OF CONTAINERS SO AS TO CREATE PUBLIC NUISANCE.

- A. It shall be unlawful for the owner, occupant, tenant or lessee of any dwelling or place of business in the City to allow Solid Waste to accumulate on the premises, or to place or cause to be placed the containers therefore in such a manner as to cause unsanitary conditions in the City. If the owner of any dwelling, place of business or industry, after having been given 24 hours' notice in writing by the City, shall refuse or neglect to perform the duties in connection with his property as specified in this chapter, the City is hereby authorized to enter upon the property and have the Solid Waste removed and the costs shall be charged against the premises.
- B. It shall be a violation of this section for such owner, occupant, tenant or lessee to place, more than 24 hours before or to allow to remain more than 24 hours after the scheduled collection date, Solid Waste containers at the curbside pickup point except for a showing of just cause. The collection date and curbside collection point shall be established by the authorized agent, or his authorized representative, who shall give adequate notice thereof to each owner, occupant, tenant or lessee.
- C. The curbside collection point is established only for efficient and economical collection service, and it shall be the duty of each premises' occupant to keep the containers at all times other than as allowed by this section at a location on his premises which is suitable and consistent with the standard set forth in subsection (a) of this section.

SECTION 5. REMOVAL OF CONSTRUCTION REFUSE AND DEBRIS, OLD APPLIANCES, BULKY WASTE, ETC.

- A. A Contractor shall not in any way be required or obligated to collect or remove from private property refuse or debris resulting from the repair, razing or construction of buildings, nor to collect or remove home appliances or wood or limbs resulting from the removal of trees, nor to render any other service unless specifically provided for in this chapter. The removal of such items is the responsibility of the owner, occupant, tenant or lessee of the property.
- B. The Contractor shall provide a special bulky waste collection service to all residential customers. The Contractor agrees to collect such large objects and quantities of waste as provided in the contract between the Contractor and the City.

SECTION 6. RATES. The rates to be charged for sanitation services shall be as follows:

- A. The rate for collection by the Solid Waste Contractor shall be consistent with the Solid Waste Contract between the Contractor and the City.
- B. All other rates and charges shall be consistent with the Solid Waste Contract between the Contractor and the City.

SECTION 7. RESPONSIBILITY FOR PAYMENT OF BILL.

The fact that legal title to property is in any person, business or other entity, constitutes prima facie proof that the person, business or other entity is responsible for the payment of charges provided for in this chapter. The fact that charges incurred were for services provided to a tenant, agent or other person using the title holder's property shall not be grounds for avoidance of penalties under this Ordinance.

SECTION 8. PENALTIES.

Any person refusing or failing to pay any charge assessed pursuant to the provisions of this chapter, including both the failure to pay for Solid Waste collection shall be guilty of a violation of this chapter and punished as provided by Section 10 herein.

SECTION 9. CONTAINMENT OF CONSTRUCTION REFUSE AND DEBRIS.

The general contractor of any construction site shall provide adequate trash containment facilities for the construction site. All such trash containment facilities must be able to hold a minimum of five cubic yards of refuse, and must contain no openings of greater than three inches. The trash containment facility must be in place no later than at the time of the first required inspection of the site by the Mayor or his authorized representative. The trash containment facility shall be emptied on a regular basis. If the City received a complaint regarding a trash containment facility at a construction site, the Mayor or his authorized representative shall notify the general contractor in writing regarding the complaint, and shall request that efforts be undertaken by the general contractor to remedy the situation. If subsequent complaints are received by the City pertaining to the same construction site, the Mayor or his authorized representative shall provide the general contractor with written notice that the general contractor has three (3) working days in which to remedy the situation. If the general contractor does not remedy the situation within that time, it shall be considered a violation of this Code, and shall be punishable pursuant to Section 10 of this Code. In addition, the Mayor or his authorized

representative shall cease all inspections until the construction site complies with this section.

SECTION 10. Whoever violates any provisions of the ordinance shall be guilty of a misdemeanor and may be punished by a fine of not more than Five Hundred Dollars (\$500.00) for the first offense on the first day, not more than Two Hundred Fifty Dollars (\$250.00) for each offense each day thereafter, plus court costs and reasonable attorney fees for each violation.

SECTION 11. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distance and independent provision and such holdings shall not affect the validity of the remaining portions thereof.

SECTION 12. Any matters set forth in this Ordinance which are contrary to the existing ordinances of the City of Diamond City shall prevail, and the Diamond City Zoning Code is amended to conform thereto, and all other ordinances and resolutions or parts of ordinances and resolutions in conflict herewith and therewith are hereby repealed to the extent of such conflict.

**EMERGENCY
CLAUSE.**

The City Council hereby determines that this Ordinance is necessary for the sanitary provision of Solid Waste services within the City of Diamond City. Therefore, an emergency is declared to exist, and this Ordinance being immediately necessary for the preservation and protection of the public peace, health, safety and welfare of the City and its citizens, shall become effective on the date of its passage and approval by the Mayor. If the Ordinance is neither approved nor vetoed by the Mayor, it shall become effective on the expiration of the period of time during which the Mayor may veto the ordinance enacting this Ordinance. If the Ordinance is vetoed by the Mayor and the veto is overridden by the City Council, it shall become effective on the date the City Council overrides the veto.


This Ordinance shall be in full force and effect on and after its passage.

PASSED AND APPROVED THIS 23 DAY OF February, 2016.

APPROVED:


Jan Hudson, Mayor

ATTEST:


Cheryl Guthrie, City Recorder