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ORDINANCE NO. 7780

AN ORDINANCE TO APPROVE AND AUTHORIZE THE  
MEMBERSHIP OF THE CITIES OF SILOAM SPRINGS,  
ARKANSAS AND ROGERS, ARKANSAS IN THE NORTH-  
WEST ARKANSAS SOLID WASTE AUTHORITY AND FOR  
OTHER PURPOSES

WHEREAS, the governments within Benton and Washington Counties, Arkansas, including the governments of Avoca, Gentry, Lowell, Elm Springs, Fayetteville, Johnson, Lincoln, Springdale, Tontitown, and West Fork and the county of Washington County, have formed a solid waste disposal authority under the name of Northwest Arkansas Solid Waste Authority; and,

WHEREAS, it is felt to be in the best interests of such authority that the cities of Rogers, Arkansas and Siloam Springs, Arkansas be allowed to join in membership in such authority; and,

WHEREAS, the cities of Rogers, Arkansas and Siloam Springs, Arkansas have passed an ordinance approving their entry into such Northwest Arkansas Solid Waste Authority, which ordinance is attached hereto and hereby approved.

NOW, THEREFORE, be it ordained by the City Council of the City of Elm Springs, Arkansas:

1. That the cities of Siloam Springs, Arkansas and Rogers, Arkansas shall be permitted to join in membership in the Northwest Arkansas Solid Waste Authority and that the ordinances passed by said cities permitting them to become members of such Authority are hereby approved.
2. That the application of the initial members of the Northwest Arkansas Solid Waste Authority be amended to include the cities of Siloam Springs, Arkansas and Rogers, Arkansas as members of that Authority and that the mayor and clerk of this city be authorized to sign an amended application to the Secretary of State for the State of Arkansas requesting an amended charter of the Northwest Arkansas Solid Waste Authority.
3. That it is determined by the city council for the City of

Elm Springs, Arkansas, that an emergency is hereby declared to exist and that this ordinance being necessary for the immediate preservation of the public health, peace and safety shall be in effect immediately from the date of its passage and approval.

4. That this ordinance shall be in effect from and after its approval and passage and the publication and recording of a certified copy thereof with the recorder of Wash. County, Arkansas.

PASSED AND APPROVED THIS 7 DAY OF July, 1980.

Bruce McElroy  
Mayor

ATTEST:

Betty Lewis  
Clerk

CERTIFICATE

I, Betty Lewis, City Clerk, City of Elm Springs, Washington County, Arkansas, do hereby certify that the above and foregoing is a true and correct copy of an ordinance numbered 7780 duly passed and approved by the city council and mayor of the City of

Elm Springs, Arkansas, on the 7 day of July, 1980, the same being recorded in book number \_\_\_\_\_ at page \_\_\_\_\_.

Betty Lewis  
City Clerk

as members of that Authority and that the judge/mayor and clerk of this county/city be authorized to sign an amended application to the Secretary of State for the State of Arkansas requesting an amended charter of the Northwest Arkansas Solid Waste Authority.

3. That it is determined by the quorum-court/city council for the County/City of Elm Springs, Arkansas, that an emergency is hereby declared to exist and that this ordinance being necessary for the immediate preservation of the public health, peace and safety shall be in effect immediately from the date of its passage and approval.

4. That this ordinance shall be in effect from and after its approval and passage and the publication and recording of a certified copy thereof with the recorder of Wash County, Arkansas.

PASSED AND APPROVED this 6 day of October, 1980.

APPROVED:

James H. Hilley  
County Judge/Mayor

ATTEST:

Betty Leuen  
County Clerk/City Clerk

CERTIFICATE

I, Betty Leuen, County-Clerk/City Clerk of Elm Springs, Arkansas, do hereby certify that the above and foregoing is a true and correct copy of an ordinance numbered 10680 duly passed and approved by the quorum-court/city council and county judge/mayor of Elm Springs, Arkansas, on the 6 day of October, 1980, the same being recorded in book number 1 at page    .

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 23 day of October, 1980.

Betty Leuen  
County Clerk/City Clerk

NW# 80-10-1

ORDINANCE NO. 10630

AN ORDINANCE TO APPROVE AND AUTHORIZE THE MEMBERSHIP OF

IN THE NORTHWEST ARKANSAS SOLID WASTE AUTHORITY  
AND FOR OTHER PURPOSES

WHEREAS, the governments within Benton and Washington Counties, Arkansas, including the governments of Avoca, Centry, Lowell, Elm Springs, Fayetteville, Johnson, Lincoln, Springdale, Tontitown, West Fork, Rogers, Siloam Springs

and the counties of Washington have formed a solid waste disposal authority under the name of Northwest Arkansas Solid Waste Authority; and,

WHEREAS, it is felt to be in the best interests of such authority that Madison County, St. Paul, Huntsville, Prairie Grove and Farmington, Arkansas,

\_\_\_\_\_ be allowed to join in membership in such authority; and,

WHEREAS, Madison County, St. Paul, Huntsville, Prairie Grove and Farmington, Arkansas,

have passed ordinances approving their entry into such Northwest Arkansas Solid Waste Authority, which ordinances are attached hereto and hereby approved.

NOW, THEREFORE, be it ordained by the ~~Quorum Court/City~~ Council of the ~~county/city~~ of Elm Springs, Arkansas:

1. That Madison County, St. Paul, Huntsville, Prairie Grove and Farmington, Arkansas,

shall be permitted to join in membership in the Northwest

Arkansas Solid Waste Authority and that the ordinances passed by said counties/cities permitting them to become members of such Authority are hereby approved.

2. That the application of the initial members of the Northwest Arkansas Solid Waste Authority be amended to include Madison County, St. Paul, Huntsville, Prairie Grove and Farmington, Arkansas.

as members of that Authority and that the judge/mayor and clerk of this county/city be authorized to sign an amended application to the Secretary of State for the State of Arkansas requesting an amended charter of the Northwest Arkansas Solid Waste Authority.

3. That it is determined by the ~~quorum-court/city council~~ for the County/City of Elm Springs, Arkansas, that an emergency is hereby declared to exist and that this ordinance being necessary for the immediate preservation of the public health, peace and safety shall be in effect immediately from the date of its passage and approval.

4. That this ordinance shall be in effect from and after its approval and passage and the publication and recording of a certified copy thereof with the recorder of West County, Arkansas.

PASSED AND APPROVED this 6 day of October, 1980.

APPROVED:

Betty Lewis  
County Judge/Mayor

ATTEST:

Betty Lewis  
County Clerk/City Clerk

CERTIFICATE

I, Betty Lewis, County Clerk/City Clerk of Elm Springs, Arkansas, do hereby certify that the above and foregoing is a true and correct copy of an ordinance numbered 10680 duly passed and approved by the

~~quorum-court/city council~~ and county ~~judge~~/mayor of Elm Springs, Arkansas, on the 6 day of October, 1980, the same being recorded in book number 1 at page     .

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 23 day of October, 1980.

Betty Lewis  
County Clerk/City Clerk

Nov # 80-12-1

ORDINANCE NO. 120/80

AN ORDINANCE TO APPROVE AND AUTHORIZE THE MEMBERSHIP OF

IN THE NORTHWEST ARKANSAS SOLID WASTE AUTHORITY  
AND FOR OTHER PURPOSES

WHEREAS, the governments within Benton and Washington Counties, Arkansas, including the governments of Avoca, Gentry, Lowell, Elm Springs, Fayetteville, Johnson, Lincoln, Springdale, Tontitown, West Fork, Rogers, Siloam Springs, St. Paul, Huntsville, Prairie Grove, Farmington, Decatur, Elkins, Greenland

and the counties of Washington, Madison  
have formed a solid waste disposal authority under the name of Northwest Arkansas Solid Waste Authority; and,

WHEREAS, it is felt to be in the best interests of such authority that Garfield, Arkansas

\_\_\_\_\_ be allowed to join in membership in such authority; and,

WHEREAS, Garfield, Arkansas

have passed ordinances approving their entry into such Northwest Arkansas Solid Waste Authority, which ordinances are attached hereto and hereby approved.

NOW, THEREFORE, be it ordained by the ~~Quorum-Court/City~~ Council of the county/city of Garfield, Arkansas,  
Arkansas:

1. That Garfield, Arkansas

shall be permitted to join in membership in the Northwest Arkansas Solid Waste Authority and that the ordinances passed by said counties/cities permitting them to become members of such Authority are hereby approved.

2. That the application of the initial members of the Northwest Arkansas Solid Waste Authority be amended to include Garfield, Arkansas

as members of that Authority and that the judge/mayor and clerk of this county/city be authorized to sign an amended application to the Secretary of State for the State of Arkansas requesting an amended charter of the Northwest Arkansas Solid Waste Authority.

3. That it is determined by the quorum court/city council for the County/City of Clinton, Ark., Arkansas, that an emergency is hereby declared to exist and that this ordinance being necessary for the immediate preservation of the public health, peace and safety shall be in effect immediately from the date of its passage and approval.

4. That this ordinance shall be in effect from and after its approval and passage and the publication and recording of a certified copy thereof with the recorder of Ark. County, Arkansas.

PASSED AND APPROVED this 1 day of Dec, 1980.

APPROVED:

James H. Cole  
County Judge/Mayor

ATTEST:

[Signature]  
County Clerk/City Clerk

CERTIFICATE

I, Clinton, Ark., County Clerk/City Clerk of Clinton, Ark., Arkansas, do hereby certify that the above and foregoing is a true and correct copy of an ordinance numbered 2010 duly passed and approved by the quorum-court/city council and county judge/mayor of Clinton, Ark., Arkansas, on the 1 day of Dec, 1980, the same being recorded in book number      at page     .

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 1 day of Dec, 1980.

[Signature]  
County Clerk/City Clerk

**ORDINANCE NO. 95-3-4**

**AN ORDINANCE REGULATING LAND CLEARANCE, SOLID WASTE, AND ABANDONED OR INOPERATIVE MOTOR VEHICLES, TO CLARIFY LANGUAGE AND TIME REQUIREMENTS, AND TO ADD PENALTIES, PROCEDURES FOR OBTAINING AND ENFORCING LIENS FOR COSTS, AND TO DECLARE AN EMERGENCY, AND FOR OTHER PURPOSES.**

WHEREAS, the removal of unsafe, unsanitary or unsightly conditions on property within the City is necessary to protect the citizens from fire, health, and safety hazards as well as to protect the benefit of surrounding property owners and all citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF ELM SPRINGS, ARKANSAS.

**SECTION 1: LAND CLEARANCE**

**Section 1-A: Intent and Purpose.**

This ordinance is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes hereof, which are public safety health, aesthetics and general welfare of the residents of the City of Elm Springs through prevention and alleviation of unsafe, unsanitary, and unsightly conditions; risk to safety of life and property from fire, bodily injury and other hazards incident to such conditions existing upon real property within the City, whether upon empty lots, in driveways, yards, or open spaces, within or about structures of any and all types, or any other manner of existence; and to preserve the aesthetic values of the residents of the City of Elm Springs.

**Section 1-B: Unsanitary, unsightly or unsafe condition defined.**

An unsanitary, unsightly or unsafe condition is defined as any such condition deemed such in the discretion of the Mayor or his authorized representative, including but not limited to stagnant pools of water, an accumulation of trash or garbage, accumulations of animal, fruit or vegetable matter, rubbish, leaves, limbs, weeds, metal, plastic, paper, or other substances which may accumulate and/or which emit vile, offensive odors, or provide a harborage for insects, flies or rodents, or increase the risk or hazard of fire, or constitute a public nuisance, or created a condition offensive or dangerous to the health, safety, aesthetics or public welfare generally.

**Section 1-C: Duty of property owners and persons holding a possessory interest in the property.**



(a) All property owners and those persons holding a possessory interest in property within the City of Elm Springs such as leasehold tenants, are hereby required to cut weeds, grass, remove garbage, rubbish, and other unsanitary and unsightly articles and things from their property, and to eliminate, fill up, or remove stagnant pools of water or any other unsanitary things, places or conditions which might become a breeding place for mosquitoes, flies, rodents or germs harmful to the health of the community, or which otherwise constitute a condition offensive or dangerous to the public aesthetics or welfare.

Section 1-D: entitled "Notice; correction by City; lien."

"If the owner of any lot or other real property, within the City of Elm Springs shall neglect or refuse to remove, abate, or eliminate any condition provided for in this chapter (pursuant to an ordinance passed by the City of Elm Springs), then the City of Elm Springs, after giving the owner seven (7) days notice in writing to do so, is authorized to do whatever is necessary to correct the condition and to charge the cost thereof to the owner of the lots or other real property."

State law reference A.C.A. 14-54-903 (A).

Section 1-E: entitled "Service of notice" shall be amended to read as follows:

"Owners of property in violation of this chapter shall be notified in writing at their current or last known address. In case the owner of any lot or other real property is unknown, or his whereabouts is not known or is a non-resident of this State, then a copy of the written notice shall be posted upon the premises. Before any action to enforce the lien shall be had, the City Clerk shall make an Affidavit setting out the facts as to unknown address or whereabouts of the non-resident. Thereupon, service of the publication as provided for by law against non-resident defendants, may be had. An attorney ad litem shall be appointed to notify the defendant by registered letter, addressed to his last known place of residence, if it can be found.

Section 1-F: Enforcement of lien.

The amount of the lien may be determined at a hearing before the City Council held after thirty (30) days written notice by certified mail to the owner of the property if the name and whereabouts of the owner is known. If the name of the owner cannot be determined, then the amount will be determined only after publication of notice of the hearing once a week for four (4) consecutive weeks. The determination of the City Council is subject to appeal by the property owner to the Chancery Court. The amount so determined at the hearing, plus ten percent (10%) penalty for collection, shall be certified by the City Council by ordinance to the tax collector of the county in which the property is located, to be placed on the tax books as delinquent taxes, and collected accordingly. The amount, less three percent (3%) thereof, when so collected shall be paid to the City by the county tax collector. In the alternative, the lien provided for pursuant to this chapter and state law may be enforced in Chancery Court at any time within eighteen (18) months after work has been done.

Section 1-G: Additional Penalties.

"In addition to any liens provided for in Section 1-F, any violation of this ordinance by a property owner and/or person holding a possessory interest in the property, such as a leasehold tenant, are punishable by: to pay a fine of not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00), and double that amount for a repeated and willful violation of the same ordinance; and/or fine of not less than (\$1.00) nor more than two hundred and fifty dollars (\$250.00) for each day of continuance.

Persons failing or refusing to pay a fine and cost of prosecution for violation of a city ordinance shall be committed until same is paid, or the party is discharged by due process of law. Provided, punishment for an offense made a misdemeanor by state law shall be neither more or less than that provided by state law.

**Section 1-H: Definitions.**

- A. Extraordinary Materials** - hazardous wastes, body wastes, dead animals, abandoned vehicles, vehicle parts, large equipment and parts thereto.
- B. Garbage** - shall mean the same as and be defined as solid waste.
- C. Hazardous Materials** - shall mean 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.
- D. Rubbish or Yard Trash** - shall mean the same as and be defined as solid waste.
- E. Solid Waste** - shall mean all putrescible and non-putrescible waste in solid or semi-solid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, or street refuse, but excluding "extraordinary materials" and "hazardous materials."
- F. Special Materials** - shall mean those bulky materials or other special wastes that are not stored in approved containers and cannot be picked up by hand.
- G. Trash** - shall mean the same as and be defined as solid waste.

**Section 3: Abandoned or Inoperative Motor Vehicles.**

**Section 3-A: Leaving on public streets.**

It is unlawful for any person to in any way abandon a motor vehicle or leave an inoperative motor vehicle on any public street or in any public place for a period of more than forty-eight (48) hours.

**Section 3-B: Leaving on property of another.**

It is unlawful to have any abandoned, unlicensed, inoperative, or unsightly motor vehicle exposed to public view on any private premises for a period of more than fifteen (15) days.

**Section 3-D: Violations; procedures.**

Enforcement of this article shall be as follows:

(1) Any motor vehicle left abandoned, unlicensed, or unattended in violation of Sections 3-A or 3-B shall be towed away and stored at the expense of the owner of the motor vehicle.

(2) The owner or occupier of premises upon which any motor vehicle is left exposed to public view in violation of Section 3-B shall be charged with such violation and punished according to Section 1-G.

Section 3-E: Enforcement.

The responsibility for enforcement of this article shall be with the City of Elm Springs Police Department which shall make investigations, serve notices, make arrests, as are necessary or incidental thereto.

WHEREAS, it is necessary for the efficient operation of the City of Elm Springs Municipal Government that the regulation of land clearance, solid waste removal and abandoned and/or inoperative motor vehicles be planned and adopted;

NOW, THEREFORE, an emergency is hereby declared to exist and this ordinance being necessary for the preservation of the public peace, health, and safety shall take effect and be in force from and after its passage and approval.

DATED this 6<sup>th</sup> day of March, 195.

Edward P. Thomas  
MAYOR

ATTEST:

Barbara Dillard  
CITY CLERK

ORDINANCE NO. 2008-17

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES,  
ARKANSAS

AN ORDINANCE TO AMEND CITY OF ELM SPRINGS ORDINANCE 93-3-4,  
WHICH REGULATES UNSAFE, UNSIGHTLY AND UNSANITARY  
CONDITIONS TO CLARIFY ENFORCEMENT AUTHORITY AND CLARIFY  
THE DEFINITIONS OF UNSANITARY, UNSIGHTLY OR UNSAFE  
CONDITION

WHEREAS, the City Council of Elm Springs, Arkansas deems it necessary to amend Ordinance 93-3-4 to clarify that the code enforcement official may enforce the ordinance, and to clarify the definitions in the ordinance.

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

**Section 1.** The Definition of an unsanitary, unsightly or unsafe condition shall be amended to add and include the following:

In addition, *Unsightly* means that a place, condition or thing is unsightly when it is in public view and offends the then-prevailing standard of the community as a whole, and not limited to a specific area, as to aesthetics or order

In evaluating whether lots which are not in agricultural use are unsightly, unsanitary or unsafe, or otherwise in violation of this ordinance, the official enforcing this ordinance shall determine that a violation has occurred if the grass, weeds or other vegetation has exceeded twelve (12) inches in height.

*Weeds* means any vegetation, lush or decayed, regardless of its beauty or utility and regardless of the fact that it might serve as a sanctuary for animals beneficial to man, which, because of its natural condition or lack of maintenance by the owner or occupant of the property, threatens the health or safety of the community or creates an unsightly condition thereon

**Section 2.** The responsibility for enforcement of the provisions of Ordinance 93-3-4 and this ordinance shall be with the Code Enforcement Official, or other designee of the Mayor, in addition to the Police Department for the City of Elm Springs. These officials shall make investigations, serve notices, make arrests, arrange for towing and storage and

dispose of motor vehicles, in accordance with state and federal law, and prohibit the reentry of any person into structures which have been deemed unsafe or inhabitable or otherwise in violation and too dangerous to occupy, and perform all other duties as are necessary or incidental to the enforcement of these ordinances, in accordance with state and federal law.

**Section 3.** All previous ordinances in conflict herewith are hereby repealed only to the extent of the conflict and this amendment does not alter any subdivision regulations but those specifically addressed herein, and those necessary to carry out this ordinance, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

**PASSED AND APPROVED** this 17 day of Nov., 2008

**APPROVED:**

Jane Waters  
Jane Waters, Mayor

**ATTEST:**  
Glenda Pettus  
Glenda Pettus, City Clerk/Recorder

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glennda Pittard, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2008-170 (the "Unsubstantiated - Amend. Ordinance") was, on the 26 day of November, 2008, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 26 day of November, 2008.

Jane Waters  
Mayor

Glennda Pittard  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 26  
Day of NOV, 2008.

C. Ray Adams  
Notary Public

My Commission Expires:

08/01/2012



ORDINANCE NO. 2011-03

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE PROVIDING FOR THE REGULATION OF SOLID WASTE AND DISPOSAL WITHIN THE CORPORATE LIMITS OF THE CITY OF ELM SPRINGS AND PRESCRIBING OTHER MATTERS RELATED THERETO.

WHEREAS, Arkansas Code Annotated § 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, there are currently no regulations related to the collection and disposal of solid waste that would constitute a system under Arkansas Code Annotated § 8-6-201 *et seq.* within the corporate limits of the City of Elm Springs, Arkansas; 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 Elm Springs.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, 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.* The container provided by the City or the City's private contractor, which must be used by the resident to hold solid waste, protect it from the elements, and keep it contained for dumping into collector trucks.
- (b) *Bulky Waste.* Stoves, refrigerators which have CFC's removed and tagged by a certified technician, water tanks, washing machines, furniture and all other waste materials other than construction debris, dead animals, hazardous waste, or stable matter with weights or volumes greater than those allowed for containers.
- (c) *City.* The City of Elm Springs, Arkansas.
- (d) *Contractor.* The sanitation company to which the City's bid was let for the residential solid waste contract, for units which generate less than two cubic yards of solid waste per week.
- (e) *Extraordinary Materials.* Hazardous wastes, body wastes, dead animals, abandoned vehicles, vehicle parts, large equipment and parts thereof.
- (f) *Garbage.* The same as and 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 four or more dwelling units.
- (i) *Solid Waste.* All putrescible and nonputrescible 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.
- (l) *Unit.* A residence or business within the city that generates solid waste and other materials that must be disposed.
- (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 COLLECTORS.** All Regular Units shall use the residential contract service that has been awarded by the City. Residents or owners of Regular Units shall not negotiate Solid Waste disposal services other than those arranged 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 services for Regular Units within the city boundaries, present and future. The terms of such exclusive franchise shall be in accordance with the provisions of any such residential 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 within the City. Such contractor shall pay the City a franchise fee, which shall be set at four percent (4%) of the rate charged for the privilege of doing business in the city pursuant to such contract.

**SECTION 3. COLLECTION.** Weekly collections are to be made under the following conditions:

- (a) *Containers Required.* All Regular Units shall set out Solid Waste for collection in Approved Containers. It is anticipated that there may be some delay between the passage of this ordinance and the receipt of Approved Containers by all Elm Springs Residents. All residents shall place solid waste in garbage bags at their curb until they receive an Approved Container.
- (b) *Location.* All collectible materials shall be placed at a location, prior to scheduled collection, that is readily accessible to the contractor's personnel.



(1) *Residential.* Solid waste shall be placed at a single collection point within six feet of the curb.

(2) *Business.* 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, readily accessible to the collection vehicles.

(c) *Frequency.* The Contractor shall furnish Solid Waste collection services in the City on a weekly basis to all Regular Units. The Contractor shall provide the City with schedules of residential 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 or news media not less than one week prior to the change. The Contractor shall also furnish a reduced rate program for senior citizens sixty-five (65) years of age or older and disabled or special needs citizens for solid waste removal, and shall also provide a program for the lawful removal of yard waste. The rates, terms and conditions for reduced rate or yard waste removal programs shall be according to the Contract between the Contractor and the City.

**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 his 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 or place of business, after having been given 24 hours' notice in writing by the chief of police, shall refuse or neglect to perform the duties in connection with his property as specified in this chapter, the chief of police 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, trash or garbage 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. For collection, every resident is required, where possible, to place the approved container within six (6) feet of the street edge or curb, with the container opening facing the street.

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

(a) The 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, at the Contractor's expense, shall provide a special bulky waste collection site at City Hall twice per year to all residential customers, unless otherwise specified. The Contractor agrees to remove and dispose such large objects and quantities of waste as described in definitions for Bulky Waste pursuant to the private Solid Waste Contract with the City of Elm Springs.

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

(a) For Regular Units, the rate for collection by a private Solid Waste contractor shall be consistent with the private Solid Waste collection contract.

**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 private Solid Waste collection and the failure to pay commercial or industrial contracts, 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 Chief Building Official 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 Chief Building Official 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 chief building official 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 or not less than Ten Dollars (\$10.00), not more than Five Hundred Dollars (\$500.00) for the first offense, not less than Ten Dollars (\$10.00), not more than Two Hundred Fifty Dollars (\$250.00) for each offense each day, plus court costs.

**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 Elm Springs shall prevail, and the Elm Springs 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.

**SECTION 13.** This Ordinance shall take effect on September 19, 2011.

**EMERGENCY CLAUSE.** The City Council hereby determines that this Ordinance is necessary for the sanitary provision of solid waste services within the City of Elm Springs. 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.

**PASSED AND APPROVED** this 19 day of SEPT., 2011.

APPROVED:

  
Ben Wall, Mayor

ATTEST:

  
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Glenda Patten, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2011-03 (the "Solid Waste Transfer Ordinance") was, on the 20 day of September, 2011, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 20 day of September, 2011.

Ben Wall  
Mayor

Glenda Patten  
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 20 Day of Sept, 2011.

C. Ray Adams  
Notary Public

My Commission Expires:  
08/01/2012

