

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.

(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.

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(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 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.**

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**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

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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



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Ben Wall, Mayor

ATTEST:

  
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Glenda Pettus, 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 Franchise 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 Pettus  
City Clerk

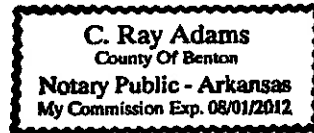
(SEAL)

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



PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

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DATED this 20 day of September, 2011.

Ben Wall  
Mayor

Glenda Pettus  
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

