

ORDINANCE NO. 1128

AN ORDINANCE AMENDING SECTIONS 4.40.04 and 4.40.05, EUREKA SPRINGS MUNICIPAL CODE, FOR THE PURPOSE OF MODIFYING THE MAXIMUM RATES WHICH MAY BE CHARGED BY A LICENSEE LICENSED BY THE CITY OF EUREKA SPRINGS, ARKANSAS, TO ENGAGE IN THE BUSINESS AND OPERATION OF COLLECTING SOLID WASTES, FOR THE PURPOSE OF PROVIDING FOR THE MODIFICATION OF SUCH RATES ON A TEMPORARY BASIS WHEN WARRENTED BY CONDITIONS OF A SUDDEN AND URGENT NATURE WHICH ARE BEYOND THE CONTROL OF A LICENSEE, AND FOR OTHER PURPOSES.

WHEREAS, R & H Haulers, Inc., an Arkansas Business Corporation and sole licensee of the City of Eureka Springs, Arkansas, pursuant to Chapter 4.40, Eureka Springs Municipal Code, filed a petition to modify the schedule of maximum rates set forth in Section 4.40.04, Eureka Springs Municipal Code, with the City Clerk/Treasurer pursuant to Section 4.40.04, Eureka Springs Municipal Code, on September 1, 1981; and

WHEREAS, notice of the filing of said petition and of the date and hour of a public hearing by the City Council to consider said petition was published in the Eureka Springs Times-Echo on September 10, 1981, in compliance with Sub-section 4.40.05(b), Eureka Springs Municipal Code; and

WHEREAS, a public hearing to consider said petition was held by the City Council on October 13, 1981, at 10:00 o'clock a.m., being a regular meeting of the City Council, as stated in said notice; and

WHEREAS, the City Council finds that this Ordinance, which grants said petition, is in the public interest and is vital to the health and well-being of the inhabitants of the City:

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

Section 1. Subsection 4.40.04(b), Eureka Springs Municipal Code, amended.

Subsection 4.40.04(b), Eureka Springs Municipal Code, is hereby amended to read in its entirety, as follows, to-wit:

"(b)(1) Monthly charges for normally generated residential and commercial solid wastes:

<u>Service Site</u>	<u>Maximum days of service per week</u>	<u>Maximum monthly rate</u>
Residence, apartment unit, condominium unit and church	1	\$ 5.00
Gift shop, antique shop, artisan shop, crafts shop, studio, gallery, and each retail shop and store not otherwise provided for	2	\$ 20.00
Hospital, clinic, nursing home	2	\$ 40.00
Garage, automobile repair shop, service station, grocery store	3	\$ 25.00
Entertainment center	3	\$ 45.00
School	5	\$150.00
Hotel, motel, rooming house, boarding house	6	\$ 85.00
Restaurant, cafe	6	\$135.00
Owned or managed by City	(see paragraph (3))	\$ 1.00 per cubic yard

"(2) Maximum monthly charges for commercial service sites generating a high volume of solid wastes and storing the same on their respective premises in high volume containers approved by the licensee and maintained on the premises of the service sites at locations accessible to the collection vehicles of the licensee and approved by the licensee shall be \$2.00 per cubic yard of solid wastes collected by the licensee or in accordance with the following schedule, to-wit:

<u>Size of Container</u>	<u>Days of Service per Week</u>				
	1	2	3	4	5
3 cubic yards	\$ 35.00	\$ 65.00	\$ 95.00	\$125.00	\$155.00
4 cubic yards	\$ 45.00	\$ 85.00	\$125.00	\$165.00	\$200.00
6 cubic yards	\$ 70.00	\$130.00	\$190.00	\$250.00	\$300.00
9 cubic yards	\$105.00	\$195.00	\$285.00	\$375.00	\$450.00

"(3) The licensee shall collect contained solid wastes at the following service sites owned or managed by the City of Eureka Springs, Arkansas, to-wit:

<u>CLASS "A"</u>		
<u>Service Site</u>	<u>Minimum days of service per week</u>	<u>Maximum days of service per week</u>
City shop	1	2
City Hall (rear)	2	3
Eureka Springs Public Library	1	2
City Fire Station Number 3	2	3

<u>CLASS "B"</u>	
East Mountain Lookout	Magnetic Spring
Onyx Spring	Sweet Spring
Little Eureka Spring	Crescent Spring
Basin Spring Park	Harding Spring
Grotto Spring	
City solid wastes containers adjacent to Auditorium	
City solid wastes containers across Spring Street from Basin Spring Park and at Pendergrass Corner	

City waste container in front of Good Shepherd Humane Society Thrift Shop
on South Main Street
City solid wastes containers next to Ozark Gray Line Tours station on South
Main Street
Harmon Park (exclusive of Eureka Springs Community Child Development Center)
City solid wastes containers in all City-owned or managed parking lots

The licensee shall provide solid wastes collection services for all service sites in CLASS "B" a minimum of one (1) day and a maximum of two (2) days per week during the months of December, January and February, a minimum of two (2) days per week during the months of November, March, April and May, and a minimum of three (3) days per week during the months of June, July, August, September and October, PROVIDED, that the licensee shall provide an additional solid wastes collection for all service sites in CLASS "B" on Saturday evening or on Sunday of each holiday or festival weekend occurring during the month of June, July, August, September or October, not to exceed six (6) such additional collections per calendar year. The licensee shall place plastic container liners in all solid wastes containers maintained by said City except those containers located in Basin Spring Park, in which such liners shall be placed by the City or by the City commission responsible for said Basin Spring Park, PROVIDED, that such liners to be placed by the licensee shall be furnished to the licensee by said City at no charge to the licensee. The licensee shall not be required to collect solid wastes at City owned or managed service sites which were not generated at such sites, and, upon discovering such solid wastes and not collecting the same, the licensee shall promptly notify the Eureka Springs Police Department of the location and nature of such uncollected solid wastes so that the same may be investigated by said Department."

Section 2. Subsection 4.40.04(c), Eureka Springs Municipal Code, amended.

Subsection 4.40.04(c), Eureka Springs Municipal Code, is hereby amended to read, in its entirety, as follows, to-wit:

"(c) The schedule of maximum rates shall apply only to curb service, that is, where the solid wastes to be disposed of by the licensee are placed, in containers, adjacent to the street which the licensee uses in providing the licensed service to the service site, which necessarily must be accessible to the collection vehicles of the licensee, PROVIDED, that commercial and City owned or managed service sites generating a high volume of solid wastes may store the same on their respective premises in high volume containers approved by the licensee and maintained on the premises of the service sites at locations accessible to the collection vehicles of the licensee and approved by the licensee, FURTHER PROVIDED, that the licensee

shall not unreasonably withhold such approval, and FURTHER PROVIDED, that the licensee shall collect solid wastes placed in containers ordinarily maintained outdoors at the sites in CLASS "B" of Subsection 4.40.04(b), Paragraph (3), at the usual respective locations of such containers.

Section 3. Subsection 4.40.04(d), Eureka Springs Municipal Code, amended.

Subsection 4.40.04(d), Eureka Springs Municipal Code, is hereby amended to read, in its entirety, as follows, to-wit:

"(d) The maximum monthly rate in Subsection (b) for residence, apartment unit, condominium unit and church service sites is based upon each service site having no more solid wastes for collection by a licensee each regularly scheduled collection day than the equivalent of three thirty-gallon containers of solid wastes. A licensee may charge a maximum of \$1.00 for each equivalent of a thirty-gallon container of solid wastes collected at any such service site on any regularly scheduled collection day in excess of three thirty-gallon containers of solid wastes."

Section 4. Section 4.40.05, Eureka Springs Municipal Code, amended.

Section 4.40.05, Eureka Springs Municipal Code, is hereby amended by adding a new subsection thereto designated "(e)" and reading, in its entirety, as follows, to-wit:

"(e) If a licensee is confronted with sudden rapidly escalating costs occasioned by sudden modifications of regulations or government agencies resulting in a sudden change in approved landfill sites available to a licensee or by sudden increases in the fees charged to the licensee by approved landfill sites, said petition may be brought before the City Council for immediate consideration. If the City Council finds that said petition has merit, the City Council may grant said petition in part or in its entirety by passing a resolution setting forth the portions of said petition so granted. Said resolution shall also provide that the modifications granted thereby are temporary and shall state the date on which said modifications shall cease to be in effect, which shall be not less than thirty days after the date on which said resolutions is passed and approved. Said resolution shall be in full force and effect as of the date of its passage and approval. Said resolution shall be published once in a newspaper having bonafide general circulation in the City of Eureka Springs, Arkansas, as soon after the date of its passage and approval as shall be practicable, and the licensee or licensees successfully petitioning therefor shall pay all costs of such publication, together with all costs relative to the preparation of said resolution. However, this subsection shall not relieve any licensee from compliance with Subsection (a),

(b) and (c) of this Section, and any licensee seeking such temporary relief without promptly proceeding to comply with said Subsections (a), (b) and (c) after the passage and approval of such resolution shall be subject to being required by the City Council to make full rebates of all additional charges collected by such licensee pursuant to said resolution, together with interest thereon at the annual rate of ten percent."

Section 5. Severability.

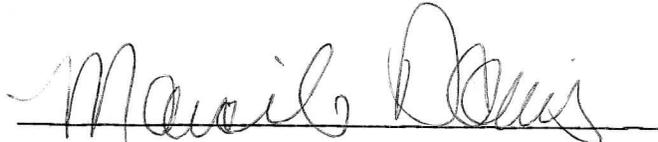
If any part of this Ordinance shall be held to be unenforceable by a court of competent jurisdiction, such holding shall apply only the part hereof so indicated by such holding, and the remainder of this Ordinance shall remain in full force and effect.

Section 6. Repeal.

All minute orders, resolutions, ordinances, or parts thereof in conflict with this Ordinance are hereby repealed.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, ON THIS 13TH DAY OF OCTOBER, 1981.

APPROVED:



Marcile Davis, Mayor

ATTEST:



Truie Walsh, Clerk/Treasurer

(SEAL)