

Amended
in part by Ord. 1462

ORDINANCE NO. 1429

AN ORDINANCE AMENDING 4.40 SUBSECTIONS, 4.40.01, 4.40.04 AND 4.40.05, SOLID WASTE COLLECTION, ADDING DEFINITIONS IN ORDER TO BRING SOLID WASTE PRACTICES UP TO EUREKA SPRINGS MUNICIPAL CODE, FOR THE PURPOSE OF PROTECTING THE HEALTH AND WELFARE OF THE CITIZENS OF EUREKA SPRINGS

1. DEFINITIONS:

- (a) Solid Waste includes normal household and business garbage, including food refuse, containers and packaging products and other common rubbish from homes and businesses.
- (b) White Goods include equipment, appliances, furniture, mattresses, tools, large toys or parts thereof, building materials, tires wires, plumbing fixtures and other items generally discarded when unservicable.
- (c) Uncollectable waste includes toxic materials, explosive materials, dead animals, recyclable materials, marketable scrap metals, motor oil, lead acid batteries and motor vehicles or parts thereof.
- (d) Recyclable Materials shall mean materials such as newsprint, unwaxed corrugated cardboard, types of office paper, glass bottles and jars, aluminum cans, high density polyethylene plastic, polyethylene trichlorate plastic or other materials designated for separate collection by the City of Eureka Springs Recycling Department. These materials are considered to be recyclable if appropriate markets exist that will accept these recyclable materials.
- (e) Garbage containers shall mean securely tied and sealed garbage bags HAVING A MARK DESIGNATED BY THE CITY, for such purpose as collecting (non-recyclable) solid wastes.
- (f) Recycling Containers shall mean any container designated by the Eureka Springs Recycling Department for the purpose of collecting recycling materials.
- (g) Yard Waste shall mean organic plant material. These materials would include: leaves, grass trimmings, branches and other organic and compostable materials.
- (h) Contaminated shall mean not in its pure state, putrefied or polluted.
- (i) Responsible Residential Tenant shall mean any occupant, tenant, owner, manager, operator or custodian of any residence, farm, apartment or dwelling unit in the City of Eureka Springs.
- (j) Responsible Business Tenant shall mean any person, firm or corporation owning or operating an industrial or commercial establishment in the City of Eureka Springs.
- (k) Contracted Waste Hauler/Contractee, shall mean the firm hired through a legally binding contract with the City of Eureka Springs for the purpose of hauling non-recyclable wastes to proper disposal.
- (l) Proper Disposal shall mean all solid wastes for disposal shall be hauled to a site or facility lawfully licensed to accept it for treatment or disposal and which site is approved by the City of Eureka Springs and the State of Arkansas governing bodies.

Section 1. Subsection 4.40.01, Eureka Springs Municipal Code, amended.

Subsection 4.40.01 amended to read, in its entirety, as follows, to wit:

4.40.01 Occupational License Required.

No person, firm or corporation shall engage in or carry on the business and operation of collecting refuse, trash, garbage and offal over or upon the streets and public ways of the City or otherwise within the corporate limits of the City without first obtaining from the City Clerk an occupational license for such business and operation. The annual fee required for obtaining such an occupational license shall be Two hundred and Fifty Dollars and 00/100 (\$250.), and each license obtained shall expire at 12:00 o'clock midnight on the 31st day of December of the calendar year in which each such occupational license is obtained. There shall be no pro-rating of said annual fee. Engaging in such business and operation within the corporate limits of the City without first obtaining such occupational license shall constitute a misdemeanor and, upon conviction thereof in the Municipal Court of Eureka Springs, the guilty person, firm or corporation shall be subject to a fine of Two Hundred and Fifty Dollars and 00/100 (\$250.00) , and each and every day of said offenses shall constitute a separate offense. Any person, firm or corporation, holding a valid license, issued pursuant to this Ordinance must renew said occupational license not later than the 31st of January of the year that the license is required; failure to do so shall cause such person, firm or corporation to be subject to a penalty of 10% of said annual license fee in addition to said annual license fee; the failure to do so by the 14th of February of the year in which the license is required shall constitute a misdemeanor and, upon conviction thereof in the Municipal Court of Eureka Springs, the guilty person, firm or corporation shall be subject to a fine of Two Hundred Fifty and 00/100 Dollars (\$250), and each and every day of such offense after the 14th of February shall constitute a separate offense. An occupational license is not a contract to haul waste in the City of Eureka Springs. The waste hauler will be required to meet the obligations and qualifications as set forth in The Eureka Springs Solid Waste Hauling Contract in order to have the exclusive privilege of hauling and collecting waste in the City of Eureka Springs.

Section 2. Subsection 4.40 .04, Eureka Springs Municipal Code amended.

Subsection 4.40.04 amended to read in its entirety, as follows, to wit:

4.40.04 Maximum rates and billing practices.

PART 1 HAULER'S SERVICE AND CHARGE TO CITY: No contractee under this chapter shall charge the city for residential collection in an amount which shall exceed the following maximum rate to wit:

(a) One collection per week, per residence of non- recyclable solid waste contained ONLY in approved garbage bags with a mark designated by the city, no other garbage bags will be accepted for collection by the hauler as specified in the hauler's contract at an amount not to exceed Five dollars and 00/100 (\$5.00) per month.

(b) One collection per year at the City's designation of all residential, bulky, white items that have been gathered together for such purpose of that collection, No Charge.

(c) Other collection of residential, bulky or white items at a rate as contracted through the responsible residential tenant and the contracted waste hauler.

PART 2. CITY'S CHARGE TO RESIDENT: The City shall not charge the residents for the provisions of solid waste and recyclable collection in an amount which shall exceed the following maximum rate to wit:

(a) Residents shall be charged a rate of Seven Dollars and 00/100 (\$7.) per month, which will include the solid waste hauling fee and the provision of four (4) said designated bags per month.

(b) The City shall make available to the responsible residential tenant, additional city marked garbage bags, at a cost of One Dollar and 00/100 (\$1.) per bag.

(c) The City of Eureka Springs will be the only authorized agent to distribute/sell the aforementioned garbage bags.

PART 3. RESIDENTIAL BILLING: The City of Eureka Springs shall handle the residential billing for solid waste disposal through the Water and Sewer billing system. The charge to the contractee for the service of residential billing shall be an amount which shall not exceed 5% of total residential bills. Records of these billings will be available for the contracted waste hauler's review in order to assure an accurate account of the receipts.

PART 4. RESIDENTIAL RECYCLING: The City shall provide for the collection of residential recyclable materials once per week at no cost to the responsible residential tenant. The City shall set forth the date that the collection of residential recyclables will begin.

PART 5. ENFORCEMENT FOR BILLING PURPOSES: The City will collect the solid waste collection charge at the same time that water and sewer service charges are collected.

(a) Failure to pay said amount for the collection of solid waste by the due date will result in a One Dollar and 00/100 (\$1.) late payment charge. Failure of payment for fifteen (15) consecutive days after the due date may result in discontinuation of services provided for by the City of Eureka Springs.

(b) Special financial arrangements may be made in order to facilitate the payment of a bill or the collection of past due amounts.

PART 6. PAYMENT TO CONTRACTED HAULER FOR RESIDENTIAL SERVICES: The City shall pay the hauler for residential waste hauling services in a manner specified in the Solid Waste collection contract and based on the receipt of residential bills through the Water and Sewer billing systems.

PART 7. COMMERCIAL RATES: The City Council of the City of Eureka Springs shall set the commercial rates to be charged according to the following schedule:

<u>Size of Container</u>	MONTHLY RATES						
	<u>Days of Service Per Week</u>						
	1	2	3	4	5	6	7
90 Gal. Poly cart	\$15	\$20	\$25	\$30	\$35	\$45	\$55
1 yard	\$25	\$35	\$45	\$55	\$65	\$75	\$85
2 yard	\$35	\$55	\$75	\$95	\$115	\$135	\$155
3 yard	\$45	\$75	\$105	\$135	\$165	\$195	\$225
4 yard	\$65	\$100	\$135	\$170	\$205	\$240	\$275
6 yard	\$85	\$130	\$175	\$220	\$265	\$310	\$355
8 yard	\$105	\$170	\$235	\$300	\$365	\$430	\$495
10 yard	\$125	\$195	\$265	\$335	\$405	\$475	\$545
12 yard	\$145	\$225	\$305	\$385	\$465	\$545	\$625
14 yard	\$165	\$255	\$345	\$435	\$525	\$615	\$705

PART 8. COMMERCIAL BILLING: The solid waste hauler is charged with the responsibility for billing the non-residential accounts under the provisions of the solid waste collection contract. Those provisions are to include:

(a) Fifteen percent (15%) of gross commercial receipts will be paid to the City of Eureka Springs for the exclusive right of hauling waste in the City of Eureka Springs.

(b) The Contractee shall make those payments to the City of Eureka Springs as specified in the solid waste contract.

(c) The records of accounts and receipts between the businesses within the City of Eureka Springs and the contractee shall be open to the City Officials for review in order to assure an accurate account of receipts.

(d) The solid waste collection contract must include a performance bond and clause regarding the failure of the contractor to make payment to the City.

PART 9. DEDICATED REVENUES: All revenues received from this ordinance will be dedicated to funding Eureka Springs Recycling and Solid Waste Programs and will go into a separate City account for such purpose.

SECTION 3. Subsection 4.40.05, Eureka Springs Municipal Code amended. Subsection 4.40.05 amended to read in its entirety, as follows, to wit:

4.40.05 Modifications of schedule of maximum rates.

Any waste hauler, contracted by the City of Eureka Springs, under this ordinance may petition the City Council, in writing, to modify one or more of the rates as set forth in Subsection 4.40.04 of this ordinance at any time provided that the contractee filing such written petition with the City Clerk shall comply with each of the following, to wit:

(a) Designate, in the petition, the date and hour that such petition shall be considered by the City Council, which must be at a regular meeting of the City Council.

(b) Cause a Public Notice of the filing of such petition and the date and hour the same shall be considered at a Public Hearing by the City Council to be published one (1) time in a newspaper having general circulation within the City, at least fifteen (15) days prior to the date of such consideration by the City Council specifically setting forth each modification requested in such petition, with the expense of such publication being paid by the petitioning contractee.

(c) In the event that the City shall grant all or part of said petition, the petitioning contractee shall pay for the preparation of the ordinance which shall amend Section 5 of this chapter, with such Ordinance to be approved, as to form, by the City Council, and shall pay for the publication of said amending Ordinance.

Section 4. Repeal of conflicting Ordinances, Resolutions, Minute Orders and parts thereof:

All ordinances, resolutions and minute orders, and/or parts of Ordinances, resolutions and minute orders, in conflict with this Ordinance are hereby repealed, effective immediately.

Section 5. Severability.

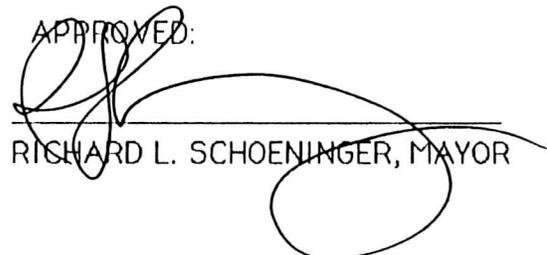
Each word, phrase, sentence, subsection and section of this Ordinance is hereby declared to be severable from each and every other word, phrase, sentence, subsection and section hereof. In the event that any part of this Ordinance shall be held to be unconstitutional or unenforceable by a court of competent jurisdiction, the remaining parts of this Ordinance not included in such holding shall remain in full force and effect.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EUREKA SPRINGS, ARKANSAS THIS 13TH DAY OF March, 1991.

ATTEST:


CITY CLERK/ TREASURER

APPROVED:


RICHARD L. SCHOENINGER, MAYOR