

ORDINANCE NO. 429

AN ORDINANCE PROVIDING FOR THE COLLECTION OF SANITATION IN THE CITY OF BARLING, ARKANSAS; REPEALING ALL OTHER ORDINANCES IN CONFLICT THEREWITH; FOR OTHER PURPOSES, AND DECLARING AN EMERGENCY THEREIN.

SECTION 1. Definitions. For purposes of this Ordinance, the following terms shall have the meanings as hereinafter defined:

Bulky items shall mean large household items, including, but not limited to: appliances, couches, tables, chairs, carpet, mattresses, lawn mowers and outdoor grills.

Commercial container shall mean a manufactured container other than a garbage can or bag suitable for storage of waste generated by non-residential customers and capable of being emptied by mechanical equipment.

Commercial customer shall mean any customer whose use of a premises, be it owned, leased, occupied, or managed by such customer, is for a purpose other than residential use or is a residential use consisting of more than four (4) residential living units per building structure for which solid waste is collected.

Curbside shall mean the area adjacent to the public or private street used for general circulation, extending from the street not more than five (5) feet onto the homeowner's property. This area should also provide at least three (3) feet of clearance on each side of the container.

Customer shall mean any person owning, leasing, occupying or managing any premises within the corporate limits of the City for which solid waste collection and disposal services are provided under the provisions of this Ordinance.

Garbage shall mean putrescible animal and vegetable waste resulting from the preparation, cooking and serving of food and the use of produce, tin cans, glass containers and papers. All normal household waste shall be considered garbage.

Garbage bag shall mean a durable, water-tight plastic bag with a wall thickness equal to or greater than one and six-tenths (1.6) mil polyethylene plastic with a capacity of not less than twenty (20) gallons and not more than thirty-two (32) gallons and having a maximum loaded weight of fifty (50) pounds.

Garbage can shall mean a water-tight, galvanized metal or heavy-duty plastic container of a capacity of not less than twenty (20) gallons and not exceeding thirty-two (32) gallons, having a maximum loaded weight of fifty (50) pounds, having two (2) handles on the sides thereof by which it may be lifted, having a tight-fitting metal or plastic top with a handle and being so constructed as to permit the free discharge of its contents.

Litter shall mean all waste material which has been discarded or otherwise disposed of including, but not limited to, convenience food and beverage packages or containers, trash, garbage, all other product packages or containers and other post-consumer solid wastes.

Recyclables shall mean materials source separated from the solid waste stream to be recovered. This shall include, but not limited to, all items included in the City's curbside recycling program, cardboard and other materials as commercial or industrial customers may source separately.

Recycling container shall mean any container used primarily for recyclables. This shall include, but is not limited to, the City-issued eighteen-gallon (18 gal.) blue containers, embossed with "Recycle."

Residential customer shall mean any customer whose use of premises owned, leased, occupied, or managed is for a residential purpose in a single-family building structure or multi-family building complexes with no more than four (4) living units per building structure.

Residential use shall mean any structure used principally as a place of habitation with facilities for living, sleeping, eating, cooking, and parking, whether owned, rented, or otherwise occupied by the occupants thereof, and shall include any single-family house as one (1) living unit, any duplex as two (2) living units, and triplex as three (3) living units, and any quadplex as four (4) living units. Any individual family unit within a multiplex shall be included as one (1) living unit.

Solid waste shall mean all putrescible and nonputrescible refuse in solid or semi-solid form including, but not limited to, garbage, street refuse, dead animals, and all other solid and semi-solid waste materials resulting from industrial, commercial, agricultural, community, and residential activities. The following are excluded from the definition of solid waste and will not be handled as solid wastes: demolition wastes, construction wastes, hazardous wastes which include explosives, pathological wastes, chemical wastes, herbicides and pesticide wastes.

Trash shall mean non-putrescible waste consisting of combustible and non-combustible materials such as, but not limited to, yard clippings, leaves, wood, glass and similar materials.

Yard waste shall mean grass clippings, leaves, brush and shrubbery trimmings.

SECTION 2. Littering. It shall be unlawful for any person to dump or cause to be dumped any solid waste on any property other than a site approved for such purposes by the City. It shall further be unlawful for any person to sweep, throw, deposit, or cause to be swept, thrown or deposited any garbage, litter, or rubbish into or on any public street, alley, sidewalk, park or the property of another person, or into any canal, stream, public water drain, sewer or receiving basin within the City, or to permit the same to accumulate in such a manner that it be carried or deposited into or on any of the above by action of the rain or wind.

SECTION 3. Non-Collectable Refuse. Building debris, such as, but not limited to, scrap lumber, plaster, roofing concrete, brickbats and sanding dust resulting from the construction, repair or remodel of any building or appurtenances thereto, dirt, stumps and tree trunks, limbs, brush, and any and all other debris, related rubbish and trash incidental to construction, shall be removed by the owner of the said property or contractor responsible for the accumulation of same

and will not be removed by the Sanitation Department. Non-collectible refuse shall be further defined as set forth below:

A. Non-Collectable Refuse.

1. Building debris such as scrap lumber, plaster, roofing, concrete, brickbats, and sanding dust resulting from the construction, repair or remodeling of any building or appurtenances on private property, dirt, stumps, and tree trunks will not be removed by the sanitation department, but the owner must cause this waste to be privately moved.

2. If disposed of in the City, such materials must be disposed of in a disposal area permitted and approved by the City Administrator, or his designated agent.

3. Every property owner and the prime contractor in charge of a construction site are required to keep solid waste originating from or due to the construction site or work contained on the construction site.

B. Collecting and hauling from private property prior to occupancy.

The City shall not be responsible for the collecting and hauling of trash, limbs, brush or other debris from private property preliminary to, during, or subsequent to, construction of new buildings of whatsoever type prior to occupancy. Such material shall be removed by the owner of such property or the contractor responsible for the accumulation of same.

C. Dead Animals.

1. Dead animals in the corporate limits of the City not in excess of fifty (50) pounds in weight will be picked up by the animal wardens or by other City agents or employees designated by the City Administrator, but in no event, shall any person having a dead animal on premises occupied or under the control of such person allow it to remain undisposed of for a period of longer than twelve (12) hours. All animals over fifty (50) pounds must be removed within twelve (12) hours by the owner. It shall be unlawful for any person to throw or put into the streets, lanes, alleys, parkways, or rights-of-way any dead animal.

2. It shall be the duty of places of business making a business of treating, handling, keeping, or disposing of animals to remove all dead animals from their premises and properly dispose of such animals under the same regulations as apply in paragraph (a) of this section.

D. Responsibilities of private contractors.

1. It shall be the responsibility of all fence companies, tree surgeons, nurseries and landscape contractors or any individual or company doing work on private property to remove from the premises all residue and rubbish resulting from such work.

2. The City of Barling shall not be responsible for the collections, hauling or disposal of bulky items as defined in Section 1. The disposal of bulky items shall be the responsibility of the tenant or current owner of the property and will not be removed by the sanitation department. The City of Barling allows bulky items to be disposed of on four calendar days during the bi-annual citywide cleanup. The citywide cleanup is held on the last two day weekend of October and April of each year.

SECTION 4. Burning and Dumping. It shall be a violation of this Ordinance for any person to dump or burn garbage except in fire-proof, enclosed incinerators that have been approved by the Fire Department of the City. In no event, shall a person be allowed to dump or burn even in incinerators approved by the City's Fire Department, if the same constitutes a continuous nuisance to the extent that it substantially interferes with the reasonable peace and enjoyment of any other citizen or resident of the City.

SECTION 5. Frequency of Collection. The collection, hauling and disposal of garbage shall be made by the Sanitation Department not less than one (1) time each week for residential customers.

SECTION 6. Determination of Rates. The rates and charges to be paid to the City by every customer for the collection, hauling and disposing of garbage and rubbish and for other health and sanitation services provided, shall be determined by the Board of Directors as it from time to time so elects, and said rates and charges shall be on file in the office of the City and available for inspection by the public at all business hours.

SECTION 7. Containers. It shall be the duty of every person in possession, charge or control of any premises in the City where garbage, recyclables, trash or solid waste is created or accumulated, to keep a sufficient number, and of sufficient size, garbage cans or commercial containers to properly contain all of the garbage, recyclables, trash or solid waste generated at the residence or business and to abide by this Ordinance.

A. Covers Required. Lids or covers of garbage cans shall be kept tightly closed at all times other than when garbage is being deposited therein or removed there from.

B. Replacement. Containers having ragged or sharp edges or other defects shall be promptly removed upon receipt of notice from the superintendent of the sanitation department, or his designated agent. If not so replaced within ten (10) days of such notice, such nonconforming or defective container may be collected by the superintendent of the sanitation department, or his designated agent, and disposed of as waste. All containers must be kept sufficiently clean so as not to create health/odor problems. Garbage in improper containers or containers in poor condition

may not be picked up by sanitation workers. Cardboard boxes and paper bags are not approved containers under this article. Every person in possession, charge of control, and in the case of multiple occupancy, the owner, and/or managing agent of the premises, shall be held responsible.

C. Preparation of trash, tree trimmings, etc., for collection.

1. All tree trimmings, large hedge trimmings, shrubs and trees not exceeding three (3) inches in diameter, deposited by sanitation customers for pickup by the Sanitation Department shall be cut into four (4) foot lengths (or less) and shall be securely bagged or bundled. Weight of such must be fifty (50) pounds or less. These bundles shall be placed by the resident/occupant along with other solid waste to be picked up on the normal garbage collection days.

2. Trash shall be deposited for collection in a similar manner as noted in subsection (1) above. Trash must be bagged or bundled, unless the item is self-contained and not likely to cause litter problems.

3. All residential sanitation customers wanting to have their yard waste picked up for disposal by the Sanitation Department, or other refuse service operating in the City, shall bag or bundle such yard waste and deposit it by their place for collection on the day or days designated by the City Administrator for the collection of yard waste.

SECTION 8. Location of Containers. All garbage cans or containers for the collection placed at curbside or beside alleys where applicable and no collection personnel are allowed to enter houses or buildings for collection of garbage. All tenants, lessees, occupants or owners of premises shall provide a safe and convenient entrance to and through the premises for the purpose of collecting garbage and all vicious animals shall either be confined or kept at a point where collectors may empty cans or containers without fear of attack from said animals.

SECTION 9. All garbage cans and/or containers shall be removed from the street and/or curb and returned by the property owner to the household within twenty-four (24) hours of collection. All garbage cans and/or containers shall be stored on the side or in the rear of the household and, in no event, shall be stored any closer to the street than the front line of the household if impractical to store them on the side or in the rear of the household.

SECTION 10. All entities desiring to provide commercial sanitation services to businesses, apartment complexes, and other commercial entities, in the City of Barling, Arkansas, may do so upon the payment in January of each year a permit fee in the sum of Five Hundred Dollars (\$500.00) which amount shall be non-refundable. Those entities that begin performing said services at other times during the year shall pay a *pro rata* amount of said annual fee.

The City Administrator shall determine that each proposed grantee of said non-exclusive franchise desiring to pay said franchise fee meet certain minimum requirements including that the grantee carry sufficient insurance, that the grantee will provide certain minimum services

including twice per week pick-up and disposal, that all equipment including dumpsters maintained by grantee not be unsightly, that grantee indemnify the City of Barling from any damage or injury of any kind caused by it or its negligence that shall comply with the reasonable requests of the City Administrator and the reasonable requirements of the City of Barling as the same may change from time to time. The grantee shall maintain an office whereby complaints may be made and records of complaints may be kept. The grantee and the City of Barling shall memorialize these requirements by entering into an agreement setting forth said terms and conditions in further detail. All grantees shall be required to execute, prior to the beginning operation and thereafter as said agreements expire, an agreement with the City of Barling as determined to be in best interest of the City by the City Administrator and which the City Administrator is hereby authorized to execute the City of Barling in accordance with the provisions of this Ordinance.

SECTION 11. Penalty for violations.

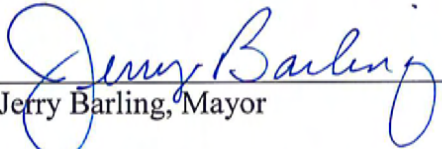
1. In this section "violation of this Code" means:
 - A. Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - B. Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - C. Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.
2. In this Section, "violation of this Code" does not include the failure of a City officer or City employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this Section.
3. Except as otherwise provided, a person convicted of a violation of this Ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00), or double such sum for each violation thereafter. If the violation is, by its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed two hundred fifty dollars (\$250.00) for each day that the same is unlawfully continued.
4. If a violation of this Code is also a misdemeanor under state law, the penalty for the violation shall be as prescribed by state law for the state offense.
5. The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.

6. Violations of this Ordinance that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a "penalty" however does not prevent the simultaneous granting of equitable relief in appropriate cases.

SECTION 12. Repeal of Ordinances 129, 133, 189, 279, 346 and 402. Prior Ordinances 129, 133, 189, 279, 346 and 402 are hereby repealed to the extent that they conflict with this Ordinance.

SECTION 13. Emergency Clause. An emergency is hereby declared to exist as the maintaining of proper garbage and trash collection, disposal and charging therefore is necessary for the preservation of the public health and welfare of the citizenry and, therefore, this Ordinance shall be in full force and effect from and after the date of its passage.

Past and Approved this 8 day of December, 2015.


Jerry Barling, Mayor


Attest: Florene Brown, City Clerk

