

ORDINANCE NO. 2016-06-578

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING CHAPTER 53: GARBAGE OF THE TONTITOWN MUNICIPAL CODE IN ORDER TO CLARIFY AND AMEND THE SOLID WASTE OPERATIONS OF THE CITY OF TONTITOWN

WHEREAS, Ark. Code Ann. § 8-6-201 et seq. requires every municipality to have a system in place to provide for the collection and disposal of solid waste;

WHEREAS, on or about March 7, 2006, the City Council of Tontitown adopted Ordinance No. 2006-03-213 to provide for the regulation of solid waste and recycling collection and disposal within the city and said Ordinance No. 2006-03-213, as it has been amended from time to time and as was thereafter codified in Chapter 53: Garbage in the Tontitown Municipal Code;

WHEREAS, the City Council of the City of Tontitown now finds it to be in the best interest of the citizens of the City of Tontitown to amend the Tontitown Municipal Code to better provide for the collection of solid waste and recycling in the city; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Chapter 53: Garbage of the Tontitown Municipal Code should be revised and restated in its entirety as incorporate herein below.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the City Council of the City of Tontitown, as follows:

Section 1. Chapter 53: Garbage, of the Tontitown Municipal Code is hereby revised, in its entirety, and as attached hereto as Exhibit "A".

Section 2. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 3. Declaration of Emergency. It is hereby found and determined that Chapter 53: Garbage, of the Tontitown Municipal Code should be immediately amended in order to provide for the proper and efficient collection of solid waste and recycling within the City of Tontitown. Therefore, an emergency is declared to exist, and this act, 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 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 7th day of June, 2016.



Paul Colvin, Jr., Mayor

ATTEST:



Rhonda Ardemagni, City Recorder-Treasurer
(SEAL)

CHAPTER 53: GARBAGE

Section

- [53.01](#) Definitions
- [53.02](#) Authorized collectors
- [53.03](#) Frequency of collection
- [53.04](#) Conditions of collection
- [53.05](#) Placement of containers
- [53.06](#) Construction debris, old appliances, and the like
- [53.07](#) Rates
- [53.08](#) Responsibility for payment of bill; delinquency
- [53.09](#) Containment of construction refuse and debris

- [53.99](#) Penalty

§ 53.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BAGS. Plastic sacks, designed to store refuse, not to exceed 33 gallons in size, with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed 50 pounds.

BIN (MULTI-FAMILY RESIDENTIAL). Metal receptacle designed to be lifted and emptied mechanically.

BIN (RESIDENTIAL RECYCLING). See Recycling Container.

BRUSH. Plants or grass clippings, leaves or tree trimmings.

BULKY WASTES. Household items other than white goods and construction and demolition material.

BUNDLE. Tree, shrub and brush trimmings securely tied together forming an easily handled package not exceeding four feet in length, six inches in diameter, or 50 pounds in weight.

CITY. The City of Tontitown.

COMMERCIAL, INDUSTRIAL AND MULTI FAMILY REFUSE.

All bulky waste, construction debris, garbage, rubbish and stable matter generated by a customer at a commercial, industrial and multifamily unit.

COMMERCIAL, INDUSTRIAL AND MULTI FAMILY UNIT.

All premises, locations or entities, public or private, requiring refuse collection within the corporate limits of the city, not a single family resident.

COMMODITY. Material that can be sold in a spot or future market for processing and use or reuse.

COMMODITY BUYER. A buyer or processor selected by the contractor pursuant to the contract documents, of recyclable materials delivered by the contractor.

CONSTRUCTION DEBRIS. Waste building materials resulting from construction, remodeling, repair, or demolition operations.

CONTAINER. A receptacle with a capacity of at least 18 to 20 gallons but less than 35 gallons, constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting. The mouth of a container shall have a diameter greater than or equal to that of the base. Waste material must be placed in properly tied plastic bags.

CONTRACT DOCUMENTS. The Request for Proposals, Instruction to Contractors, Contractors Proposal, General Specifications, the Contract Performance Bond, and any addenda or changes to the foregoing document agreed to by the city and the contractor, and the contract signed by the contractor and the city.

CONTRACTOR. Such private firm designated by the city for the collection, transportation, and/or disposal of the solid waste and recyclable materials collection and processing.

CUSTOMER. An occupant of a residential unit who generates refuse.

DEAD ANIMALS. Animals or portions that have expired from any cause except those slaughtered or killed for human use. Dead animals are classified as unacceptable waste by the Arkansas Department of Pollution Control and Ecology and shall not be disposed of in a landfill.

DISPOSAL SITE See Landfill (Sanitary).

GARBAGE. All accumulation of waste (animal, vegetable and/or other matter that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter) including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents; except, in all cases, any matter included in the definition of bulky waste, construction debris, dead animals, hazardous waste, rubbish or stable matter.

HAZARDOUS WASTE. Solid wastes regulated as hazardous under the Resource Conservation and Recovery Act, 42 U.S.C. Section 1002, *et seq.*, or regulated as toxic under the Toxic Substances Control Act, 15 U.S.C.A. Section 2601 *et seq.*, regulations promulgated thereunder or applicable state law concerning the regulation of hazardous or toxic wastes.

LANDFILL (SANITARY). Tontitown Landfill, an Arkansas Class I landfill, or any other alternate, duly permitted sanitary landfill approved for use by the Tontitown City Council.

PREMISES. All public and private establishments, including individual residences, all multi-family dwellings, residential care facilities, hospitals, schools, businesses, other buildings, and all vacant lots.

RECYCLABLE MATERIALS. Commodities collected by the contractor pursuant to the contract documents, which can be sold in a spot or future market for processing and use or reuse including, but not limited to, newsprint, magazines, plastic (PET and HDPE) bottles, aluminum cans and metal (tin) cans. Acceptable recyclable materials may be added or deleted, based on market conditions, upon notice to the city.

RECYCLING CONTAINER. A plastic receptacle, designed for the purpose of curbside collection of recycling commodities, with minimum capacity of 18 gallons.

REFUSE. Residential refuse and bulky waste, construction debris and stable matter generated at a residential unit, unless the context otherwise requires, and COMMERCIAL, INDUSTRIAL AND MULTI FAMILY refuse.

RESIDENTIAL GARBAGE. All garbage and rubbish generated by a customer at a single family residence. A dwelling structure within the corporate limits of the city occupied by a person or group of persons. A single family resident shall be deemed occupied when either water or domestic light and power services are being supplied thereto. Each single-family dwelling shall be billed separately.

RESIDENTIAL UNIT. (Multi Family) A dwelling or multi-family structure within the corporate limits of the city occupied by a person or group of persons. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium or apartment dwelling, whether of single or multi-level construction, shall be treated as a RESIDENTIAL UNIT. Each complex consisting of five or more units shall utilize bins (Multi-Family Residential) and be serviced once a week. Multi-family residential unit owners shall contract with Authorized Collectors. See: 53.02

RUBBISH. Non putrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, used or scrap tires, and similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and the like materials which will not burn at ordinary incinerator temperatures (1600 degrees Fahrenheit to 1800 degrees Fahrenheit).

SOLID WASTE. All non-hazardous (as defined by CERCLA and other applicable laws) and non-special (See Special Waste definition) solid waste material, produced by residential units including unwanted or discarded waste material in a solid or semi-solid waste, including but not limited to, garbage, ashes, refuse, rubbish, yard waste (including brush, tree trimmings and Christmas trees), discarded appliances, home furniture and furnishings, provided that such material must be of the type and consistency to be lawfully accepted at the sanitary landfill under the applicable federal, state and local laws, regulations and permits governing each.

SPECIAL WASTE. Waste, from a non-residential source, meeting any of the following descriptions:

- (1) Containerized waste (e.g. a drum, barrel, portable tank, box, pail, etc.);
- (2) Waste transported in bulk tanker;
- (3) Liquid waste;
- (4) Sludge waste;
- (5) Waste from an industrial process;
- (6) Waste from a pollution control process; and
- (7) Residue and debris from the cleanup of a spill or release of chemical; or
- (8) Any other waste defined by Arkansas law, rule or regulation as **SPECIAL WASTE**, including the waste set forth on Exhibit "B" attached to Ord. 2006-12-277.

STABLE MATTER. All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry, or livestock.

UNUSUAL ACCUMULATED.

- (1) For residences, each regular collection of more than four containers of garbage, or the equivalent;
- (2) Large, heavy, or bulky objects such as furniture or appliances; and
- (3) Materials judged to be hazardous such as oil, acid, or caustic materials.

YARD WASTE. Leaves, grass clippings and tree and hedge trimmings generated by the homeowner. These items must be bagged or bundled. Bundles cannot exceed four feet in length, or six inches in diameter, or 50 pounds in weight.

YELLOW BAG PROGRAM. A program offered to senior citizens, age 65 or greater, where instead of a base rate a senior citizen would purchase yellow bags for trash disposal. These bags may be purchased in quantities of not less than five at the Tontitown Water and Sewer Office.

(Ord. 2006-12-277, passed 12-5-06)

§ 53.02 AUTHORIZED COLLECTORS.

All residents shall use the residential contract service that has been awarded by the city. Commercial, industrial, and multifamily residential customers shall contract with a licensed private collector for Industrial, Commercial and multi-family residential bin collection who meets all city requirements. Residents shall not negotiate solid waste services other than those arranged by the city and shall not opt to assume the responsibility of disposal for themselves.

(A) *Residential; franchise fee.* The city grants to the private solid waste contractor the exclusive right and obligation to provide solid waste collection services for residential and business establishments within the city boundaries, present and future. The terms of such exclusive franchise shall be in accordance with the provisions of such sanitation 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 residential within the city. The city shall bill each residential customer a franchise fee, as established by the city, on a monthly basis.

(B) *Commercial/industrial/multifamily contracts requirements;* Private collectors may execute agreements for the collection of solid waste from any commercial/industrial/multi family unit in the city.

(Ord. 2006-03-253, passed 3-7-06; Am. Ord. 2006-12-277, passed 12-5-06)

§ 53.03 FREQUENCY OF COLLECTION.

The city, through its authorized agent, will collect trash, rubbish and the garbage at all residential housing units within the complete city limits each week. The contractor shall furnish solid waste collection services in the city to all residential. 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 the city and each customer affected not less than one week prior to the change.

(Ord. 2006-03-253, passed 3-7-06; Am. Ord. 2006-12-277, passed 12-5-06)

§ 53.04 CONDITIONS OF COLLECTION.

Weekly collections are to be made under the following conditions:

(A) *Containers required.* Each residential or business industrial unit shall provide approved containers as defined by this chapter.

(B) *Yard and other trash.* When the resident finds it necessary to dispose of yard or other trash, excluding garbage and empty containers, all such trash shall be placed in disposable containers or tied in bundles not longer than four feet in length and weighing not more than 50 pounds each and shall be placed at the street curb by the residents on the pickup date.

(C) *Location.* All solid waste shall be placed in approved containers at a location, prior to scheduled collection, that is within five feet of the curb or the edge of the road and 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.

(Ord. 2006-12-277, passed 12-5-06)

§ 53.05 PLACEMENT OF CONTAINERS.

(A) It shall be unlawful for the owner, occupant, tenant or lessee of any dwelling or place of business to allow solid waste to accumulate on his or her 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 Code Enforcement Officer, shall refuse or neglect to perform the duties in connection with his or her property as specified in this chapter, the Code Enforcement Officer is hereby authorized to enter upon the property and have the solid waste removed and the costs shall be charged against the premises. Any person cited shall be guilty of a violation of this chapter and punished as provided by § [53.99](#).

(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 division (A) of this section.

(Ord. 2006-12-277, passed 12-5-06)

§ 53.06 CONSTRUCTION DEBRIS, OLD APPLIANCES, AND THE LIKE.

The authorized private solid waste 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 appliances containing freon, etc., 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.

(Ord. 2006-12-277, passed 12-5-06)

§ 53.07 RATES.

The rates to be charged for sanitation services shall be as follows:

(A) *Residential rates.*

<i>Tontitown Solid Waste Service Rates - Effective June 16, 2016</i>				
	4 Bag	8 Bag	12 Bag	1 Yellow Bag*
Rate	\$14.51	\$28.23	\$42.36	\$1.51
State Tax	\$0.94	\$1.83	\$2.75	\$0.10
City Tax	\$0.29	\$0.56	\$0.85	\$0.03
County Tax	\$0.18	\$0.35	\$0.53	\$0.02
Franchise Fee	\$0.62	\$1.20	\$1.80	-
Billing Fee	\$0.60	\$0.60	\$0.60	\$0.60
Total	\$17.42	\$32.48	\$47.99	\$2.26
	Recycling			
Rate	\$3.88			
State Tax	\$0.25			
City Tax	\$0.08			
County Tax	\$0.05			
Total	\$4.26			
*Available to citizens 65 or greater. (Persons on the program do not have to pay the monthly rate, just the bags used.)				
Each residential account shall be allowed the equivalent of four 35-gallon plastic trash bags per week.				

(B) For commercial/industrial/multi-family residential contracts, the rates assessed by any approved private collector shall be negotiated and agreed upon by and between the customer and the private collector.

(Ord. 2006-03-253, passed 3-7-06; Am. Ord. 2006-12-277, passed 12-5-06; Am. Ord. 2013-03-415, passed 3-5-13; Am. Ord. 2014-03-462, passed 3-4-14; Am. Ord. 2015-02-511, passed 2-3-15)

§ 53.08 RESPONSIBILITY FOR PAYMENT OF BILL; DELINQUENCY.

(A) 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 § [53.99](#).

(B) Any bill not paid in full by the due date shall be considered delinquent and a late fee of 10% of the base rate shall be added to the bill. Any delinquency not corrected within 60 days shall be considered refusal or failure to pay as provided in § [53.99](#).

(Ord. 2006-12-277, passed 12-5-06)

§ 53.09 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, by a hauler licensed to do business by the Boston Mountain Solid Waste District or its successor, on a regular basis. If the city receives 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 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 § [10.99](#). In addition, the Chief Building Official or his authorized representative shall cease all inspections until the construction site complies with this section.

(Ord. 2006-12-277, passed 12-5-06)

§ 53.99 PENALTY.

Any person or business entity violating any provision of this chapter shall be fined in the sum of not less than \$10 and not more than \$500, or may be sentenced to imprisonment for not exceeding 30 days, or both. Each act of violation and each day upon which a violation occurs constitutes a separate punishable offense. Any person, business or other entity refusing or failing to pay any charge assessed pursuant to the provisions of this chapter shall be guilty of a violation and punishable as set out in this section. In addition, if it is judicially determined that any person, business or other entity has refused or failed to pay any charge assessed pursuant to the provisions of this chapter for a period of more than 60 consecutive days, the city shall terminate the city water and other services to the property for which the charge was made. The person, business or other entity with legal title to the property 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 staying the termination of city services provided for in this section.

(Ord. 2006-03-253, passed 3-7-06)

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