

ORDINANCE NO. 214

AN ORDINANCE ADOPTING REGULATIONS AND GRANTING AUTHORITY TO ENTER INTO CONTRACTS FOR SOLID WASTE COLLECTION, TRANSFER, TRANSPORT AND DISPOSAL FOR ALL RESIDENTIAL AND COMMERCIAL PROPERTIES WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF ELEPHANT BUTTE, NEW MEXICO AND THE INHABITANTS THEREOF.

WHEREAS, staff for the GOVERNING BODY did duly publish notice of this ordinance in accordance with law; and

WHEREAS, the GOVERNING BODY did hold a duly noticed Public Meeting; and

WHEREAS, the GOVERNING BODY did consider testimony from staff and the public before reaching its decision; and

WHEREAS, NMSA 1978, Section 3-17-1 provides that the GOVERNING BODY of a municipality may adopt ordinances to effect or discharge the powers and duties conferred upon it by law and to provide for the safety, preserving the health, promoting the prosperity and improving the morals, order comfort and convenience of the municipality and its inhabitants; and

WHEREAS the health, safety, and general welfare of the residents of the City of Elephant Butte, New Mexico requires regulation of the solid waste collection, transfer, transport, and disposal for all residential and commercial properties within the municipal boundaries of the City of Elephant Butte, New Mexico; and

WHEREAS, the City Council for the City of Elephant Butte, New Mexico is authorized under NMSA 1978, Section 3-48-1 et seq. and Section 3-17-1 to adopt regulations and enter into contracts for solid waste collection, transfer, transport, and disposal for all residential and commercial properties within the municipal boundaries of the City of Elephant Butte, New Mexico and to provide for the health, safety and welfare of the residents of the City of Elephant Butte; and

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ELEPHANT BUTTE, NEW MEXICO that the City Council for the City of Elephant Butte, New Mexico hereby adopts the following solid waste ordinance enacted to read as follows:

Article I – Definition; Purpose

Section 1. SHORT TITLE.

This Ordinance may be cited as the "Solid Waste Ordinance of the City of Elephant Butte, New Mexico."

Section 2. AUTHORITY AND PURPOSE.

AUTHORITY: This Ordinance is adopted pursuant to the enabling provisions of NMSA 1978, Section 3-17-1, as amended, and Section 3-48-1 et seq.

PURPOSE: The purpose of this ordinance is to establish regulations and the option to enter into contracts for solid waste collection, transfer, transport, and disposal for all the residential and commercial properties within the municipal boundaries of the City of Elephant Butte, New Mexico.

Section 3. SEVERABILITY.

Should any section, paragraph, clause, or provision of this Ordinance for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 4. EFFECTIVE DATE.

This ordinance shall be in full force and effect after its adoption, approval, and publication as provided by law.

Article II – Collection and Disposal

Section 1. PENALTY.

Any person who shall violate any provision of this Article shall be subject to a fine of fifty dollars (\$50.00). Each day of a violation shall be considered a separate offense.

Section 2. AUTHORITY TO PROVIDE SERVICE.

(a) The City Council may enter into contracts with a refuse collector ("Contractor") which shall have the exclusive right within the service area to collect, remove, or dispose of both residential and non-residential solid waste, with the exception of dead animals, hazardous wastes and other such materials which the City is prohibited by law from collecting or disposing.

(b) No person or organization aside from the Contractor may offer or sell any services for the

systematic and routine collection, transportation or disposal of garbage, trash or refuse.

Section 3. ADDITIONAL PROHIBITED PRACTICES.

The following actions with regard to solid waste are hereby prohibited and, notwithstanding Section 1 herein, each person who commits these violations shall be subject to a fine of one-hundred dollars (\$100.00); each day of a violation shall be considered a separate offense:

- (1) Burning;
- (2) Dumping;
- (3) Placing solid waste in any container or areas other than those specifically designated or approved by the City for collection or disposal;
- (4) Scavenging;
- (5) Depositing of hot waste in excess of 180 degrees Fahrenheit into any container or enclosure designated for refuse collection;
- (6) Presenting to the City for disposal infectious waste, hazardous waste, flammable or explosive refuse, radioactive waste or other contaminated materials which by law or regulation must be properly disposed by a specially licensed or equipped person or requires a solid waste facility specifically authorized for this purpose;
- (7) Placing furniture, mattresses, large tree limbs, tires, engine parts, appliances, or other large items at the curbside or in waste containers for routine weekly collection;
- (8) Depositing, dumping or burying dead animals, or any substance condemned by the state or City, or any other deleterious or offensive substances, except as provided for in this chapter. Dead rodents, fish, and birds shall be double-bagged and sealed;
- (9) Willfully destroying or damaging Contractor-provided garbage receptacles; and
- (10) Willfully parking or placing obstacles so as to interfere with or prevent the automated collection of garbage receptacles.

Section 4. ADMINISTRATION OF SERVICES.

The Contractor shall attend to all requests for new or additional collection service, cancellation or reduction of service by residential customers.

Section 5. STORAGE AND TREATMENT OF GARBAGE.

No person owning or occupying any building, lot or premises in the City shall suffer, allow or permit to remain upon the lot or premises any garbage or trash outside of containers; provided, however, that this provision shall not be construed as preventing backyard composting, or the deposit and spreading of rotten manure upon any lawn or garden provided the same shall be reasonably free from offensive odors and is not so deposited or spread as to constitute a nuisance. Except as provided for in this article, garbage or trash, whether in containers or not, shall not be placed in the City's rights-of-way, in any alley, upon any street, or curbside during

intervals between regular collections. Failure to observe this prohibition shall constitute a public nuisance and be subject to all remedies at law and in equity.

Section 6. RESIDENTIAL COLLECTION.

- (a) All single-family dwellings and multiple-family dwellings of four or fewer dwellings on a single site shall be required to deposit garbage in containers supplied by the Residential Contractor. Garbage and refuse not enclosed in containers supplied by the Residential Contractor will not be collected, unless otherwise provided for in this article. Such uncollected garbage and refuse shall not be permitted by the owner or occupant of the premises to remain in the City's rights-of-way, in any alley, upon any street, or curbside for more than twelve (12) hours after refusal of the Contractor to collect such garbage and refuse.
- (b) Customers shall keep all refuse and garbage within their private premises or containers on their private premises until the time when containers are placed for collection. Residential garbage shall be placed out for collection no earlier than 5:00 p.m. on the day prior to the regularly scheduled day for collection. No resident may leave a container after collection for more than twenty-four (24) hours after that collection in the right-of-way.
- (c) Residential garbage shall be placed as close to the front curb as possible but shall not be placed on the sidewalk and shall be clear of pedestrian and vehicular traffic. Where a curb does not exist, the refuse container shall be placed on the property side, outside the traffic boundaries of the road. The garbage container shall be clearly visible and accessible to collection crews and free from any obstructions including, but not limited to, trees, power poles, mailboxes, shrubbery, walls, fences and vehicles. Neither the Contractor nor its agents will enter upon private land in order to make collections and pickups. The garbage container shall be placed forward facing the street or alley, with the hinge top being located on the side immediately adjacent to the owner's property.
- (d) Garbage and refuse shall not be stacked so that it rises above the rim of the container, nor shall garbage and refuse be stacked on top of the closed container. The customer shall cleanup refuse spills around the receptacle within twenty-four (24) hours of the spill.
- (e) All garbage containers shall be kept in a clean and sanitary condition by the owner or person using the same, and all containers shall be tightly covered at all times except when garbage is being deposited therein or removed thereof, and shall at all times be proofed against access by vermin to the contents thereof. The garbage shall be bagged prior to depositing it into the receptacle.

Section 7. COMMERCIAL COLLECTION

- (a) Apartments, sites where there are more than four (4) residential units on a single parcel, businesses or other nonresidential premises, shall be required to use dumpsters supplied by Contractor.

- (b) Contractor is authorized to designate the location of all containers for commercial collection, taking into consideration convenience to collection crews and to customers, traffic hazards, and other hazardous conditions.
- (c) All garbage containers shall be kept in a clean and sanitary condition by the owner or person using the same, and all garbage containers shall be tightly covered at all times except when garbage is being deposited therein or removed thereof, and shall at all times be proofed against access by vermin to the contents thereof. The garbage shall be bagged prior to depositing it into the container or dumpster.

Section 8. FREQUENCY OF COLLECTION; SPECIAL PICKUPS.

- (a) Residential and apartment collections from containers shall be at least once weekly.
- (b) Commercial collections shall be at least once weekly, but not more often than five (5) days a week.
- (c) Other collections may be made as deemed necessary by the City Manager or the City Manager's designee or the Contractor. In the case of special, unscheduled pickups, the charge, if any, to the requesting party shall be determined by the appropriate commercial fee schedule.

Section 9. REMOVAL TO DESIGNATED PLACE.

- (a) All garbage removed from any premises within the City, shall be taken to a facility registered or permitted with the State of New Mexico.
- (b) For the preservation of the public health and general welfare, it is hereby declared to be unlawful for any person, including public employees, to gather, remove, dump or dispose of garbage in any other place. All scavenging in and removal of all classes of garbage, trash, refuse and debris from containers provided and maintained by the Contractor is prohibited.

Section 10. RATES AND FEES

- (a) The service rates for all residential customers shall be a reasonable fee as negotiated by the City and Contractor pursuant to NMSA 1978, Section 3-48-3(B) & (C).

Section 11. LIEN; FORECLOSURE.

The failure to pay for garbage collection services shall result in a lien upon the property, and the Contractor shall be authorized to take whatever steps necessary pursuant to NMSA 1978, Section 3-48-1 et seq to perfect and foreclose upon said lien.

Section 12. REPEALER

All other ordinances or resolutions or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency or conflict.

PASSED, ADOPTED AND APPROVED THIS ____ DAY OF _____, 2023.

APPROVED:

Phillip Mortensen, Mayor

ATTEST:

Lindsey Cobleigh, City Clerk

DRAFT