

ORDINANCE NO. A- 454

AN ORDINANCE CREATING A "CITY SANITATION DEPARTMENT" FOR GATHERING, TRANSPORTING AND DISPOSING OF GARBAGE WITHIN THE CITY FOR THE BENEFIT OF ITS INHABITANTS; FOR FIXING AND CHARGING FEES FOR SUCH SERVICES; FOR PRESCRIBING PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

SECTION 1. There is hereby created a "City Sanitation Department" within and for the City of Conway, Arkansas, to be supervised and operated by the City Council of said City. The Mayor, by and with the advice and consent of the Council, shall have power to employ a foreman and such other laborers as may appear necessary to efficiently and systematically gather, transport, and dispose of all garbage inside the city limits; to demand and collect fees as herein fixed; to maintain said department; to exercise a general supervisory control over the garbage operations of the City; and to exercise a general supervisory control over the control of mosquitoes and other insects, and over the care, cleanliness and mowing of vacant lots and other property within said City, in accordance with other ordinances now in effect in the City.

SECTION 2. The word "Garbage" as used in this ordinance shall include all waste matter and materials coming from human habitation and places of business of a kind not run through sewers, including street filth, droppings from animals, decayed foods, flesh, vegetables, and fruits; dead animals and bones; waste from slaughterhouses, processing plants and factories; all used boxes, barrels, containers, waste paper and sweepings from stores, warehouse, restaurants, hotels, and other such places of business; grass, leaves, shrubbery and small trees; discarded furniture, machinery, and other such matter not exceeding 100 pounds in weight; discarded cans, jars, glass containers, crockery and other utensils and vessels; all house, storehouse and warehouse trash and sweepings, as well as all other unsightly and unsanitary materials and things that appear detrimental to the beauty of the City or the health of its inhabitants.

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SECTION 3. For gathering, transporting and disposing of garbage as herein provided, the City of Conway shall charge and collect fees each month as follows, to-wit:

- (a) For each separate retail or wholesale business or commercial establishment, as hereinafter defined, a fee of not less than \$2.00 per month shall be collected, The amount of the fee to be charged any such establishment shall be determined upon the experience with that establishment, having due regard to the quantity, type and weight of garbage collected therefrom. The term "business or commercial establishment" as used herein is defined to include any person, firm or corporation engaged in displaying, selling, buying or servicing of goods, wares, merchandise or other property, or the rendering or receiving of professional services, and including, but not limited to banks, barber shops, beauty parlors, department stores, markets, motor vehicle service stations, garages, offices, radio stations, super markets, telephone exchanges, theaters, repair shops, and livestock auction barns. It is expressly provided, however, that the foregoing definition shall exclude the following: educational institutions, wherein persons are assembled for the purpose of learning or of receiving educational instruction; industrial plants, where the activities therein consist of assembling, fabricating, finishing, manufacturing, packaging or other processing operations are carried on; and institutional facilities owned or operated by a governmental agency wherein the premises are occupied by persons harbored or detained for the purpose of receiving medical, charitable or other care or treatment, or are occupied by persons for civic, governmental, or religious purposes.

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SECTION 4. It is hereby declared to be a privilege to deposit trash and garbage at the City's dumping ground and the following schedule of fees is hereby established for the exercise of that privilege:

(a) Any person, firm or corporation which is a current subscriber to the City's garbage collection and disposal service shall be charged no fee for such privilege when he or it has transported such garbage to the City's dumping ground and has given the attendant at such dumping grounds his account number with the City's Sanitations Department.

(b) Any person, firm or corporation situated within the corporate limits of the City of Conway but which is excepted from the provisions of this ordinance with regard to subscription to the collection and transportation of garbage in Section 3, (a), hereof, which desires to transport its garbage to and dump the same upon the City's dumping grounds shall be permitted to do so upon payment of a permit fee of not less than \$10.00 per month. The amount of the fee to be charged hereunder shall be determined by the experience with that person, firm or corporation, having due regard to the quantity, type and weight of garbage deposited therefrom. PROVIDED, HOWEVER, this provision shall not apply to contractors who engage in the repair, remodeling, alteration or construction of residences, buildings or other improvements in the corporate limits of the City at a site or sites other than their principal office or place of business.

(c) Any person, firm or corporation situated outside the corporate limits of the City of Conway which is engaged in the operation of an industrial plant, wherein the activities therein carried on consist of assembling, fabricating, furnishing, manufacturing, packaging or other processing, and which desires to transport its garbage to and deposit the same upon the City's dumping ground shall be permitted to do so upon payment of a permit

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fee of not less than \$10.00 per month, the amount of such fee being determined by the experience with that person, firm or corporation, having due regard to the quantity, type and weight of the garbage deposited therefrom.

(d) Any person residing outside the corporate limits of the City of Conway, or any person, firm or corporation engaged in the operation of a business or commercial establishment, as defined hereinabove, which is situated outside the corporate limits of said City, which desires to transport its garbage and to dump the same upon the City's dumping grounds shall be permitted to do so upon payment of a permit fee of not less than Fifty Cents (\$0.50) for each load or part of load so transported and dumped.

(e) All persons, firms or corporations who engage in the construction, erection, remodeling, alteration or repair of buildings, residences or improvements at a site or sites within the corporate limits of the City of Conway other than its principal office and place of business shall be permitted to transport garbage to and to dump the same upon the City's dumping grounds upon payment of a permit fee equal to one tenth of one per cent. (0.1%) of the contract price of such contract, which fee shall be paid to and collected by the City Building Inspector at the time the building permit is issued upon such contract. PROVIDED, HOWEVER, no such permit fee shall exceed the sum of \$250.00. At the time such building permit is issued and the permit fee hereunder is paid the Building Inspector shall issue and deliver to such contractor a permit authorizing the contractor to utilize the City dumping grounds for garbage from the subject of said contract, and such permit shall be exhibited to the attendant at said dumping grounds prior to dumping any garbage thereat. It is the intention of this provision and it is expressly provided that each permit so issued shall entitle the holder thereof to utilize the City dumping grounds for the purpose of disposing of garbage only from the subject of the specific contract

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for which said permit is issued and from no other contract, and a separate permit shall be required for each such contract.

(f) Every person dumping or disposing of garbage at the City's dumping grounds shall do so during the hours when said grounds are in operation and at the place directed by the attendant or other agent, servant, or employee of the City who is on duty at said grounds.

(g) For homes, apartments, residences, mobile homes and dwelling units, per month:

Each separate family dwelling	\$1.50 to \$3.00
Each duplex apartment house, per unit	1.50 to 3.00
Each apartment house; per unit	1.50 to 3.00
Each mobile home or house trailer not situated in mobile home park	1.50 to 3.00
Each mobile home or house trailer situated in mobile home park	1.50
Each separate dwelling unit owned and operated by the Conway Housing Authority or other such public agency	1.50

SECTION 5. The fees as herein provided shall be paid monthly at the office or offices in said City which may now or hereafter be designated by the City. Provided, however, that in instances wherein more than one apartment, home, mobile home, house trailer or other housing unit, or more than one business establishment, office or store, is situated upon or within the same premises, the charges shall be made on a unit basis and the bill therefor rendered to the person, firm or corporation owning the property, in the same manner as hereinabove set forth. If such fees be not paid on or before the 10th day of the calendar month next preceding the month for which said bill is rendered a penalty of 10% of the total amount of such fee shall be added thereto; and if any fee shall remain unpaid for a period of thirty (30) days after the date such bill is rendered the City shall have the right to institute an action for its recovery. On the first day of each calendar month the Sanitation Officer shall physically count the number of mobile homes situated in each mobile home park within the City limits and the bill of charges due from each mobile home park operator for the month immediately preceding shall be computed by multiplying the number of mobile homes then present in such park by \$1.50.

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SECTION 6. All fees or monies collected under the provisions of this ordinance, and all fines assessed and paid under the provisions of this ordinance, less and except those portions required to be paid out for other purposes, shall be deposited in a separate fund to be maintained in a bank or **banks** authorized to receive deposits of funds of the City of Conway, under the style of "Sanitation Department Fund of the City of Conway," or a synonymous appellation. Withdrawals of monies from said fund may be made only for the purposes authorized by the provisions of these sections, in the manner provided by other ordinances of the City of Conway governing the disbursement of funds of the City. There shall be maintained at all times a separate and complete account of monies deposited in, and withdrawn from, said "Sanitation Department Fund of the City of Conway."

SECTION 7. The City Council shall have the power to adjust, fix and collect fees from and against persons, firms and corporations not properly classified in Section 3 hereof.

SECTION 8. All persons, firms and corporations having garbage to be transported as provided in this ordinance shall provide suitable metal cans with tight-fitting covers and shall place them at a place on their premises where the same may be accessible for garbage collectors. Said cans shall be no larger than a "thirty-gallon" capacity and shall have suitable handles for the convenience of the garbage collectors.

SECTION 9. All garbage must be drained of all liquid substance before being placed in cans.

SECTION 10. It shall be unlawful for any person, firm or corporation to burn any trash or garbage except in incinerators approved by the City Health Officer or the Chief of the Fire Department, or to dump or throw any garbage upon any vacant lot or into any street or alley in said City.

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SECTION 11. Garbage shall be collected from business houses and other such establishments each day except Sunday and holidays and from dwelling houses and hones twice each week on designated routes and schedules; and it is hereby made the duty of the persons having garbage on their premises to place it where it may be easily reached by the City garbage employees.

SECTION 12. The City Council shall have power to employ one or more inspectors to insure a proper enforcement of the provisions of this ordinance.

SECTION 13. Any person, firm or corporation failing to pay the fees and penalties provided by this ordinance or otherwise violating its provisions shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed \$25.00, and each day any such violation shall continue to exist shall constitute a separate offense and be punishable as such.

SECTION 14. For the purpose of this ordinance the gross revenues derived by the City for the services rendered hereunder shall be considered to include the gross funds collected directly or indirectly from the monthly fees or charges as herein provided, together with fines (not including costs) assessed and paid on account of violations of the provisions of these sections. The gross revenues derived by the City of Conway from fees or charges for the services to be rendered prusuant to the provisions of this ordinance shall be applied as follows:

First, to the payment of expenses incurred by the City in the procurement, purchase, maintenance, upkeep, replacement and operation of all equipment, trucks, tanks, machinery, chemicals and materials necessary for the operation of said Sanitarion Department, for the salaries or wages of all employees thereof, in the preparation and publication of this ordinance, and in the execution of the provisions of this ordinance, If and when any part of **said** gross revenues

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derived from the fees or charges for the services to be rendered hereunder then remains, such excess shall be available for appropriation and use by the City of Conway for such other lawful purposes as the City Council shall designate.

SECTION 15. The City Council is authorized and empowered to lease or purchase lands without the corporate limits of the City of Conway to be used in the disposal of garbage.

SECTION 16. For the purpose of enforcing the provisions of this ordinance and other ordinances pertaining to the health and sanitation of the inhabitants of the City, the health officers and employees of the City and of Faulkner County, Arkansas are hereby granted full power and authority to act within said City and to perform all and singular the duties of such health units on behalf of the City which they have under the laws of the State of Arkansas and the rules and regulations of the State Board of Health of the State of Arkansas.

SECTION 17. If any clause, sentence, paragraph, section or other portion of this ordinance be found to be unconstitutional or invalid or inoperative by any court of competent jurisdiction, such finding shall not affect the validity of the remainder of these sections, nor shall any proceeding attacking any portion of these sections operate to affect any portion of the remainder of said sections not specifically attacked in said proceeding.

SECTION 18. In lieu of employing such persons and purchasing such machinery, vehicles and equipment as shall be necessary for the City Sanitation Department to efficiently and systematically gather, transport and dispose of garbage within the corporate limits of the City the City Council shall be empowered, in its sound discretion, to contract with one or more reliable persons, firms or corporations to so gather, transport and dispose of such garbage. And should the City Council so determine, the contracts therefor shall be upon the

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terms and conditions which shall best benefit the City and its inhabitants and preserve and protect the public health, safety and welfare, including, but not limited to the regulation of charges to be levied for such service, requiring the use of approved equipment, regulating the frequency of collection of garbage in any and all areas of the City, requiring such contractors to perform such service in the same manner it could require of its own employees, agents, servants, and requiring such contractors to perform their own collection of fees therefor.

SECTION 19. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 20. It is ascertained and declared that the lack of adequate methods and facilities for gathering, transporting and disposing of garbage is endangering the health and well being of the inhabitants of the City of Conway; therefore, an emergency is hereby declared to exist and this ordinance, being necessary for the immediate preservation of the health, safety and welfare of the inhabitants of said City, shall take effect and be in force from and after its passage and publication.

PASSED: _____, 1967.

APPROVED: _____
Mayor

ATTEST: _____
Clerk-Treasurer