

## TITLE 17

REFUSE AND TRASH DISPOSAL<sup>1</sup>

## CHAPTER

## 1. LITTER CONTROL AND SANITATION REGULATIONS.

## CHAPTER 1

LITTER CONTROL AND SANITATION REGULATIONS.

## SECTION

17-101. Title and definitions.

17-102. Moving violations.

17-103. Stationary violations.

17-104. Stationary violations; litter generated from handling solid waste.

17-105. Collection fees and special rules.

17-106. Litter receptacles.

17-107. Unauthorized use of receptacles.

17-108. Disposal of material by contractors.

17-101. Title and definitions. (1) Title. This chapter shall be known and may be cited as the City of Fayetteville Litter Control and Sanitation Ordinance.

(2) Definitions. (a) "Litter" means all waste materials including, but not limited to, bottles, glass, crockery, cans, scrap metal, paper, plastic, rubber, garbage, offal, waste building material at construction sites, disposable packages or containers thrown or deposited as prohibited herein, but not including the disposed waste of the primary processes of mining, logging, saw-milling, framing or manufacturing.

(b) "Person" means any natural person, corporation, partnership, association, firm, receiver, guardian trustee, executor, administrator, fiduciary, or representative, or group of individuals or entities of any kind.

(c) "Private property" means property owned by any person as defined herein, including but not limited to yards, grounds, driveways, entrance or passageways, parking areas, storage areas, any body of water, vacant land, and recreational facilities.

(d) "Public property" means any area that is used or held out for use by the public, whether owned or operated by public or private

---

<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

interests including, but not limited to, highways, streets, alleys, parks, recreation areas, sidewalks, medians, lakes, rivers, streams, ponds, or other bodies of water.

(e) "Vehicle" means every device capable of being moved upon a public highway or public waterway and in, upon, or by which any person or property may be transported or drawn upon a public highway or public waterway, and shall also include any watercraft, boat, ship, vessel, barge, or other floating craft, except devices moved by human power, or used exclusively upon stationary rails or tracts, or used exclusively for agricultural purposes and not licensed pursuant to state law, which is not operated on any public highway for purposes other than crossing such public highway, or along such highway between two tracts of the owner's land.

(f) "Litter receptacle" means a container with a capacity of not less than 20 gallons, constructed and placed for use as a depository for litter.

(g) "Institution" means any public or private establishment which educates, instructs, treats for health purposes, or otherwise performs a service or need for the community, region, state or nation.

(h) "Dumpster" means 4 to 8 cubic yard receptacle used by the collection agency to pick up bulk material.

(i) "Director" means the director of public works. (1979 Code, § 8-201)

17-102. Moving violations. (1) Littering prohibited; penalties. (a) It shall be unlawful for any person to drop, deposit, discard, or otherwise dispose of litter in or upon any public or private property within City of Fayetteville including but not restricted to any street, sidewalk, park, body of water, vacant or occupied lot, except in public receptacles, or in authorized private receptacles provided for public use, or in an area designated by the State Department of Health as a permitted disposal site.

(b) When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of in the highway, right-of-way, property adjacent to such highway or right-of-way, or private property has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such trash, garbage, refuse or other unsightly matter; provided, however, that such presumption shall be rebuttable by competent evidence.

(2) Uncovered vehicles; escape of load. (a) No vehicle shall be driven or moved on any highway unless such vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom. Provided, however, that sand or any substance to increase traction or water or other substance may be applied on a

roadway in the cleaning or maintaining of such roadway by the state or local government agency having such responsibilities.

(b) No vehicle used to transport litter or other items likely to fall or be blown from such vehicle, shall be driven or moved, stopped, or parked on any highway unless such vehicle is covered to prevent its contents from blowing, dropping, or falling from such vehicle.

(c) Any person operating a vehicle from which any glass or objects have fallen or escaped, which could cause an obstruction or damage a vehicle or otherwise endanger travelers on such public property, shall immediately cause the public property to be cleaned of all glass or objects and shall pay any costs therefor.

(3) Enforcement of litter laws; prosecution; presumption. (a) The director of public works, the health officer and the building official are hereby empowered to issue citations to, or arrest, persons violating any provision of this chapter, and may serve and execute all warrants, and other process, issued by the court in enforcing the provisions of this chapter. In addition, mailing by certified mail of such process to his last known place of residence shall be deemed as personal service upon the person charged, for the purpose of this chapter.

(b) Prosecution for a violation of any provision of this chapter may be initiated by any law enforcement officer who witnesses such offense or who discovers an article of litter bearing a person's name or address on the property of another, on any public highway, street, or road, upon a public park or recreation area, or upon any other public property except property that is designated for solid waste disposal. Such prosecution may be initiated by any private citizen, who witnesses an offense or discovers evidence.

(c) Any article of litter bearing a person's name or address, found on the private property of another, or on any public property as designated herein, shall be presumed to be the property of such person whose name or address appears thereon, and that such person placed or caused to be placed such article of litter; provided, however, that such presumption shall be rebuttable by competent evidence.

(d) Whenever any person is arrested for a violation of this chapter, the arresting law enforcement officer shall take the name and address of such person and issue a complaint, summons, or otherwise notify him in writing to appear at a time and place to be specified in such complaint or notice. Such officer shall thereupon and upon the giving by such person of his written promise to appear at such time and place forthwith, release him from custody. Any person refusing to give such written promise to appear shall be prosecuted as in the manner of other violations of chapters.

(e) Upon the failure of such person to comply as herein provided, the clerk of the court named in such summons shall summons

such person to appear in such court to answer the charge of the violation of this chapter. (1979 Code, § 8-202)

17-103. Stationary violations. (1) Areas surrounding commercial establishments and institutions. It shall be the duty of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding area clear and free of litter. These areas include, but are not restricted to, public and private sidewalks, roads, and alleys; grounds; parking lots; loading and unloading areas; and all vacant lots which are owned or leased by said establishment or institution.

(2) Keeping residential property clean. It shall be the duty of each residential property owner and tenant to keep all exterior private property free of litter. These areas shall include, but not be restricted to, sidewalks, alleys, and driveways; yards and grounds; fences, walls, and property lines; drainages; and vacant lots in residential areas.

(3) Keeping sidewalks clean. Each owner, agent, occupant, or lessee whose property faces on sidewalks, or strips between street and sidewalk, shall be responsible for keeping said sidewalk and strips free of litter. Also immediately after a snow or sleet, occupants are required to remove all accumulated snow or ice from sidewalk.

(4) Sweeping litter into the street. It shall be unlawful to sweep or push litter from sidewalks into streets. Such litter shall be deposited in a proper receptacle which shall be covered to prevent scattering by wind and animal.

(5) Construction and demolition sites. (a) It shall be unlawful for any owner, agent, or contractor to permit the accumulation of litter before, during, or after completion of any construction or demolition project.

(b) It shall be the duty of the owner, agent, or contractor in charge of a construction or development site to furnish litter receptacles and to collect and contain to prevent scattering other bulk litter on a daily basis. All litter shall be removed from such site not less than once a week.

(6) Handbills and advertising material. It shall be unlawful for any person distributing commercial handbills, leaflets, flyers, or any other advertising and information material to distribute material in such a manner that it litters either public or private property. (1979 Code, § 8-203)

17-104. Stationary violations; litter generated from handling solid waste.

(1) Solid waste containerization. (a) Each owner, occupant or other responsible person using or occupying any building or other premises within the city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be rodent and insect proof, shall be strong, durable, or galvanized steel or plastic construction, and have

attached handles for easy lifting. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the city handles mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Containers loaded with wood, concrete blocks, brick or heavy metal will not be emptied. Plastic bags may be used in place of metal or plastic containers. Dumpsters may be used provided they are placed in a location mutually agreeable to the occupant and the director. Box pens shall be kept clean by occupant and loose materials are the responsibility of the occupant.

(b) Excess material as a result of special circumstances must be placed in plastic bags.

(c) Items too large to fit into containers, such as, but not limited to, household appliances, furniture and mattresses, shall be placed curbside.

(2) Proper litter receptacles or solid waste containers. (a) Any receptacle or container which does not conform to this chapter shall be replaced by owner or user of said receptacle or container upon written notice from the department of public works. Failure to do so within five (5) days shall constitute a violation of this section, and each day thereafter shall constitute a separate violation.

(b) In no case will it be the responsibility of the refuse collecting agency of the city to shovel or pick up from the ground any accumulations of refuse with the exception of intact cardboard boxes which may be placed neatly and safely around said refuse containers.

(c) Where alleys are used by the city refuse collectors, containers shall be placed on or within three (3) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city's refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom.

(d) No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public anti-litter cans for the deposit of refuse commonly recognized as litter.

(e) Except as otherwise herein provided, only the city shall engage in the business of collection, removing or disposing of refuse within the corporate limits. The city may provide such service either with its own forces or by contractors. Industrial and commercial locations

may contract their own collection service, however, the city must be notified of collection agency and length of contract.

(f) The director is authorized and directed to prepare schedules for regular collection of refuse throughout the city. Refuse shall be collected at least twice weekly and otherwise as often as reasonably necessary to protect against health and fire hazards.

(3) Indiscriminate dumping or discarding of litter and solid waste.

(a) It shall be unlawful for any person to discard or dump along any street or road, on or off the right-of-way, any household or commercial solid waste, rubbish, refuse, junk, vehicle or vehicle parts, rubber tires, appliances, furniture, and any other material or equipment, on public or private property, except by written consent of the owner of said private property, or except in receptacles provided for public use for the deposit of said material, or except in an area designated by the state department of health as a permitted disposal site.

(b) Any article of litter bearing a person's name or address found on the private property of another, or on any public property, shall be presumed to be the property of such person whose name or address appears thereon, and that such person placed or caused to be placed such article of litter; provided however, that such presumption shall be rebuttable by competent evidence. (1979 Code, § 8-204)

17-105. Collection fees and special rules. (1) Service fees for collection, removal and disposal. The following monthly fees are established for the collection, removal and disposal of refuse:

Residential units using containers the city empties mechanically . . . . .	\$10.00
Residential units for those persons meeting hardship qualifications adopted by the city . . . . .	\$6.00
Residential units including single family dwellings, mobile homes, duplex, triplex, quadruplex, and five (5) or more units, for each unit thereof shall pay . . . . .	\$10.00
(Apartment houses or mobile home parks with five or more units have the option of using containers the city can empty mechanically, in which case their monthly rate will be based on volume.)	
Public housing authorities under HUD shall pay . . . . .	\$8.00
Boarding houses of three (3) or more living quarters . . . . .	\$30.00
Churches (provided, however, that if the director determines that said church should be rated on volume, the director shall thereafter direct that said church be billed for the appropriate amount) . . . . .	\$10.00
Shared containers-In cases where two (2) or more commercial businesses share the same mechanical container, the cost of collection may be prorated based on the amount of refuse collected for each business.	

Low cost housing for elderly persons exempt from ad valorem taxes under Tennessee Code Annotated, § 67-5-207 with dumpsters and for residential unit served by the dumpsters . . . . . \$10.00

The director shall cause each commercial establishment to be placed in a particular group based upon average collections per week. The director from time to time may change the classification of a commercial establishment from one group to another.

The formula by which charges are made as set forth in this section based upon formula shall be in accordance with the formula adopted by resolution of the city and shall be kept on file at the clerk's office.

Any user who is aggrieved by the service charge volume assessed him, may submit the grievance to the street and sanitation committee of the board of mayor and aldermen for consideration of the particular circumstances involved and if, in the opinion of the committee, the request for an adjustment is warranted, the committee shall so inform the user and city clerk of the adjustment; provided, however, that any user submitting a request under this section shall continue to pay the regular rates until the adjustment is approved by the committee.

(2) Special collection services. The director may provide other collection and removal services to meet unusual circumstances and conditions, in accordance with regulations and fees recommended by him and approved by the municipal governing body.

(3) Billing of service fee. The service fee for collection, removal, and disposal of refuse by the city shall be included as a separate item each month on the bills rendered by the city water and sewer system for water service to all city customers except industrial and public housing projects which shall be billed by the city clerk's office. Said charges shall be rendered on the first water bill sent on and after January 1, 1990, and for each month thereafter. The accounts shall be paid monthly at the same time water bills are paid, except that accounts billed by the clerk's office shall be due in ten days.

Water service shall be discontinued for failure to pay the refuse service fee by the delinquency date prescribed for the water bill.

When service commences or ceases, applicable fees may be prorated. If water services shall be supplied to a location, the occupant or tenant of which has vacated said premises, and the city is satisfied that there has been a termination of the need for refuse collection, then the city, on application of the owner or agent therefor, may suspend liability for such refuse fees, and said fees shall be reinstated with the next water bill rendered to an occupant or tenant of the premises.

In the case of premises containing more than one dwelling unit or place of business, and each is billed separately for water, such fees shall be billed to each person in possession, charge or control who is a water customer of the City of Fayetteville Water and Sewer System. In the case of premises containing

more than one dwelling unit or place of business which are served through a single water meter, so that the occupants or tenants cannot be billed separately, the customer responsible for the water bill shall be liable for the refuse service fees for the premises.

(4) Disposal sites; rules and regulations; fees. It shall be unlawful for any person to dispose of refuse at any place other than a refuse disposal site designated by the municipal governing body. Refuse disposal sites shall be available for use subject to reasonable rules and regulations and disposal fees recommended by the director and approved by resolution of the municipal governing body.

(5) Special rules, regulations, and charges authorized for certain refuse. Collection, removal and disposal of the following types of refuse shall be subject to reasonable rules and regulations and special charges recommended by the director and approved by resolution of the municipal governing body:

- (a) Building or construction debris;
- (b) Trees, tree trimmings, leaves, lawn clippings, etc.;
- (c) Dangerous materials or substances such as poisons, acids or other caustics or refuse which is highly infectious or combustible;
- (d) Junk automobiles, refrigerators and other bulk items.

(6) Exceptions. Nothing in this chapter shall prevent:

- (a) Any commercial or industrial refuse producer from collecting, removing and disposing of his own refuse, provided he does so in such manner as not to create a nuisance and provided further that he pays all applicable disposal fees.
- (b) Any licensed junk dealer from collecting refuse recognized as having a salvage value, provided such dealer may collect such salvageable material only from premises where he has a written invitation from the occupant.
- (c) Any refuse producer or owner from selling or giving salvageable materials to licensed junk dealers for collection, removal and disposal.

(7) Implementing authority of director. The collection, removal and disposal of refuse from premises in the city shall be under the supervision and control of the director. He shall recommend to the governing body such reasonable rules and regulations, not inconsistent with the provisions of this chapter, as he deems to be necessary or desirable, which shall become effective when approved by resolution of the governing body. (1979 Code, § 8-205, as amended by Ord. #95-9, May 1995, Ord. #2001-6, May 2001, and Ord. #2005-6, May 2005)

17-106. Litter receptacles. (1) Use of receptacles. It shall be unlawful to deposit any item or items, except litter, in any receptacle placed for public use as a depository for litter.

(2) Providing adequate litter receptacles. It shall be the duty of any person owning or operating any establishment or public place to provide receptacles adequate to contain the litter generated at said establishment.

(3) Regulations regarding receptacles. The director is authorized to promulgate additional regulations concerning the number, size and locations of litter receptacles which should be approved by the board of mayor and aldermen and kept on file at the clerk's office. (1979 Code, § 8-206)

17-107. Unauthorized use of receptacles. It shall be unlawful to deposit any item in any privately owned receptacle without the consent of the owner. (1979 Code, § 8-207)

17-108. Disposal of material by contractors. It shall be unlawful for contractors to fail to remove from the premises used carpet, flooring, construction or demolition material resulting from their work unless the owner or tenant of the premises signs a release on a form prescribed by the City of Fayetteville. (Ord. #95-7, March 1995)