

CITY OF TEA ORDINANCE 221

AN ORDINANCE AMENDING CHAPTER 4, COLLECTION OF GARBAGE, SECTION 4.01 OPERATORS, LICENSING AND RESTRICTIONS, SECTION 4.02, ON SITE GARBAGE LICENSE AND ORDINANCE 148, AMENDING SECTION 4.01 (b) OF THE MUNICIPAL ORDINANCES OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TEA, SOUTH DAKOTA THAT CHAPTER 4, SECTIONS 4.01, 4.02 AND ORDINANCE 148 BE AMENDED IN ITS ENTIRETY TO READ AS FOLLOWS:

SECTION 4.01. COLLECTION OF GARBAGE AND RECYCLABLES

A) GARBAGE SERVICE REQUIRED.

Every City residence is required to have garbage service provided by a City of Tea licensed garbage hauler. The occupant, owner, or manager of every dwelling, house, dwelling structure or apartment shall remove or have removed all garbage from the premises at least once each week and deposited in a permitted solid waste facility.

B) LICENSE REQUIRED.

It shall be unlawful for a commercial garbage hauler to use the streets or roads within the City of Tea for the collection, removal or disposal of any solid waste, without first having obtained a Commercial Garbage Hauler License from the City of Tea.

The City may approve no more than two (2) commercial garbage hauler licenses for the first 1,500 of population or fraction thereof and not to exceed one license for each additional 1,500 of population or fraction thereof. For the purpose of this section, population is equal to ninety percent of the population estimates published by the United States Census Bureau for each even-numbered year, except for the decennial year. For a decennial year, population is equal to the amount determined by the decennial federal census.

C) APPLICATION FOR LICENSE.

The form for application for a Commercial Garbage Hauler License and renewal thereof, as required by the provisions of this ordinance, shall be available from the Municipal Finance Officer. Upon completion of the application, the applicant shall return it to the Municipal Finance Officer for review. For an application to be considered complete, the applicant must submit the following:

- 1) Proof of certification by the Sioux Falls Health Department that the applicant will be allowed to deposit solid waste collected from the City of Tea, SD in the Sioux Falls Sanitary Landfill
- 2) Certificate of insurance coverage, as described in the Performance Standards Section 4.01 (F) (7)
- 3) Proposed rate structure, as described in the Performance Standards Section 4.01 (F) (9)
- 4) Payment of an application fee set by resolution of the City Council;
- 5) A written description of the recycling program offered by the hauler to its customers.

D) APPROVAL OF APPLICATION BY THE GOVERNING BODY REQUIRED PRIOR TO LICENSURE OR RENEWAL.

Before any Commercial Garbage Hauler License shall be issued, renewed or transferred under the provisions of this ordinance, the Governing Board must approve the Application for License as described in Section 4.01 (C) of this ordinance. The City Council may require the applicant to furnish additional information, prior to approval of an application. Upon approval of the application, the Municipal Finance Officer shall issue a Commercial Garbage Hauler License to the applicant. Once issued, licenses shall be

conditional upon the license holder complying with the Performance Standards in Section 4.01 (F) of this ordinance.

E) TRANSFER OF LICENSE.

A holder of a currently valid Commercial Garbage Hauler License, in conjunction with a party wishing to receive such a license, may apply for transfer of such a license in the same manner of application described in Section 4.01 (C) of this ordinance. In such cases, the payment of the applicable fee shall be the responsibility of the party to receive the transferred license. For an application for a transfer to be considered complete, the signatures of an authorized representative from each party must be present on the application form. If, at the time of application for transfer, there are more licenses issued than available pursuant to Section 4.02, the city reserves the right to not grant a transfer of an existing license. This also applies to the merger or acquisitions of currently licensed or unlicensed garbage haulers.

F) PERFORMANCE STANDARDS.

For any Commercial Garbage Hauler License to be effective the holder of such license shall comply with the following performance standards:

- 1) Random Load Inspections. No holder of a Commercial Garbage Hauler License shall violate any rule or policy established by the City of Sioux Falls for the Sioux Falls Sanitary Landfill. All vehicles transporting solid waste to the Sioux Falls Sanitary and licensed under this ordinance shall be subject to random load inspections performed by the Sioux Falls Health Department. License holders should be aware that the Sioux Falls Health Department will forward reports of landfill rule violations to the City of Tea, SD.
- 2) Minimum Design Requirements for Equipment. All solid waste collection or transportation equipment operated by license holders are required to meet the following standards:
 - a) Vehicle shall be water tight;
 - b) Vehicles shall be covered, with no openings which would allow the contents to escape;
 - c) Vehicle boxes shall be of all metal construction, and shall have metal doors which shall be in a closed position whenever the vehicle is in motion;
 - d) Containers must be attached or bolted to the frame when in transport;
 - e) All vehicles and containers must be manufactured or designed for hauling solid waste;
 - f) Vehicles and containers shall be thoroughly washed as directed by the City Council of Tea, SD or the Sioux Falls Health Department, as may be necessary to keep vehicles and containers in proper sanitary conditions;
 - g) Vehicles shall be loaded so that solid waste does not spill out, fall out, blow out or otherwise leave the vehicle or container while it is collecting or transporting solid waste;
 - h) Each vehicle having a permit under this article shall permanently display the licensed commercial garbage hauler's name in easily-legible letters at least three inches high or identifying logo;
 - i) Each vehicle shall comply with City of Tea Ordinance 139 pertaining to truck load limits. Additionally, trucks will operate with tag axles down at all times.
- 3) Frequency of Collection. Each holder of a Commercial Garbage Hauler License shall collect solid waste from its customers at least once per week. In cases where a customer of a license holder produces a type or quantity of solid waste which requires more frequent collection to protect public health, sanitation or safety, the City Council may direct the license holder to collect solid waste from that particular customer on a more frequent basis.
- 4) Hours of Collection. Each holder of a Commercial Garbage Hauler License shall not begin collection of garbage before 7:00 a.m.

- 5) Recycling Programs Required. Each holder of a Commercial Garbage Hauler License shall provide a program for collection of recyclable materials. Each such program shall include collections of recyclable materials from customers a minimum of one time per month. Each hauler shall provide to the City, as part of the hauler's annual application for a Commercial Garbage Hauler License, a written description of the hauler's recycling program.
 - 6) Containers Provided. Each holder of a Commercial Garbage Hauler License shall provide suitable, rigid, watertight containers in which the occupants shall cause to be deposited all garbage, animal waste, rubbish and recyclable materials, except yard waste, accumulating upon the premises. Containers shall be provided with tightly fitting covers, which shall not be removed, except when necessary. Residential recycling containers shall accommodate single –stream recycling. The garbage and recycling containers shall be kept in an inconspicuous place beside or behind the structure which is reasonable accessible to the licensed commercial garbage hauler. Containers shall display the licensed commercial garbage haulers name in easily legible letters at least three inches height or identifying logo.
 - 7) Insurance Required. A certificate of insurance which lists the City of Tea as named insured must be provided along with the application for a Commercial Garbage Hauler License.
 - a) Such insurance shall protect the applicant and the City of Tea against loss from the following:
 - i) Liability imposed by law for damages on account of bodily injury death resulting there from, suffered or alleged to have been suffered by any person or persons whatever resulting directly or indirectly from any act, activity, errors or omissions of the licensee, any person acting for the licensee or any person under the control or direction of the licensee and
 - ii) Liability imposed by law for damages to property resulting directly or indirectly from any act, activity, errors or omissions of the licensee, any person acting for the licensee or any person under the control or direction of the licensee
 - b) The certificate of insurance must show that the applicant has secured liability insurance with the following minimum coverage:
 - i) \$1,000,000 per person bodily injury; and
 - ii) \$3,000,000 per occurrence ; and
 - iii) \$300,000 property damage
 - 8) Duty of License Holder. License holders shall comply with all the ordinance of the City of Tea, SD
 - 9) Rate Structure. Each applicant for a Commercial Garbage Hauler License shall provide, as an attachment to the application, a schedule of rates which the applicant is proposing to charge its customers. The rate structure shall demonstrate that the applicant's proposed rates are volume based. For the purpose of this section, volume based refers to garbage collection rate structures which provide for user fees which increase as the volume of waste collected increases. Volume based rates encourage source reduction, re-use and recycling. If applicable, charges shall be categorized as to residential, commercial, and any other special charges. If the application is approved, the rate structure identified in the application shall remain in effect during the term of the license. A license holder may change the rate structure during the term of the license only upon approval by the Governing Board. The Governing Board may approve a requested change only after a written request from the license holder, and only if the request appears to maintain the principles of volume based rates.
- G) OBLIGATION TO REMOVE. Garbage collectors shall be under no obligation to remove any garbage unless the payments for the removal of such garbage, as provided by contract with the customer, shall have been made.

- H) REVOCATION. Any license issued under the provision of this chapter may be revoked by the City Council for the violation by the licensee of any applicable provision of state law or City Ordinance, rule or regulation.
- I) PENALTY. Any person who violates the restrictions set forth in section 4.01 may be subject to an administrative fee established by resolution of the city Council and removal costs incurred by the city, and shall be in addition to the required permit fees. Violations of this ordinance shall also be subject to a fine in an amount set by resolution and not to exceed the maximum amount allowed by state law or by imprisonment not exceeding 30 days or by both the fine and imprisonment
- J) SAVING CLAUSE. In the event that any part of this ordinance is declared, by a duly authorized court of law, to be unconstitutional, in conflict with South Dakota Codified Laws, or in Conflict with the Administrative Rules of South Dakota, such part of this ordinance shall become null and void. In the event of such a finding against a part of this ordinance, the remainder of this ordinance shall continue to be effective.
- K) SEPARABILITY. All prior ordinances or parts of prior ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4.02. TEMPORARY PLACEMENT OF DUMPSTERS AND PORTABLE STORAGE UNITS WITHIN THE CITY OF TEA.

- A) PURPOSE. It shall be illegal for any person to place one or more dumpsters or portable storage units in or upon any street or public grounds or upon private property without first having obtained a Permit. Unless specifically listed herein the provision of Section 4.01 Garbage and Trash shall apply.
- B) DEFINITIONS. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

DUMPSTER: A container designed to receive, transport and dump waste

PORTABLE STORAGE UNIT: A container designed or used for the storage of personal property which is typically rented to owners or occupants of property for their temporary use and which is delivered and/or removed by truck

- C) PERMIT.
 - 1) Every person seeking to place one or more dumpsters or portable storage units in or upon a street or public grounds or upon private property shall first apply to the Zoning Official or designated representative for a Permit. No permit shall be issued for placement of one or more dumpsters or portable storage units on a street or public grounds unless placement on private property is not reasonably feasible.
 - 2) The application fee for a permit allowing the temporary placement of dumpsters or portable storage units in or upon any street or public grounds or upon private property shall be set by resolution of the City Council. The fee for failing to obtain a permit prior for the placement of a dumpster or portable storage shall be set by resolution of the City Council. The application fee is waived for any permit allowing the temporary placement of dumpsters or portable storage units upon private property.
 - 3) Every provider applying for a permit to place one or more dumpsters or every applicant applying for a permit to place one or more portable storage units in or upon any street or public grounds or upon private property shall provide a bond in the amount of \$1,000 to cover the cost to repair any damage caused by the applicant's use of the street or public grounds for such purpose. No permit shall be issued until such bond has been provided to the city. If the cost to repair any damage caused by the

provider or applicant's use of the street or public grounds exceeds the value of such bond, such amount shall become the debt of the applicant, immediately due and owing to the city.

- 4) Application for a permit must be submitted to the Zoning Official or designated representative at least 3 working days prior to the proposed placement of one or more dumpsters or portable storage units in or upon any street or public grounds or upon private property.
- 5) Each provider or applicant holder shall allow access to private property by the Zoning Official or designated representative, during reasonable hours of the day to verify compliance with the applicable provisions of this ordinance.
- 6) By applying for a permit, each provider or applicant agrees to any and all provisions of this ordinance.

D) DURATION OF PERMITS.

- 1) Permits issued for placement on streets and/or public grounds shall be limited in duration as follows:
 - a) Dumpsters – 30 days
 - b) Portable storage units – 14 days
- 2) Permits issued for placement on private property shall be limited in duration to 45 days
- 3) The duration of permits may be extended for good cause shown at the discretion of the Zoning Official or designated representative.

E) GENERAL RESTRICTIONS AND REQUIREMENTS.

- 1) No dumpsters or portable storage units in or upon any street or public grounds or upon private property shall be filled beyond the top of such dumpster or portable storage facility.
- 2) Dumpsters or portable storage units in or upon any street or public grounds or upon private property shall be emptied as soon as practical, or when full, and no mechanical hydraulic or electrical loader, compactor, packer or conveyor in the residential districts may begin before 7:00 a.m.
- 3) No dumpsters or portable storage units in or upon any street or public grounds or upon private property shall be filled by means of a chute, conveyor, belt, or other device, located in, above, on or across a street, or by dropping or throwing items in, above, on or across a street, unless the permit authorizing placement of such dumpsters or portable storage units in or upon any street or public grounds or upon private property specifically authorizes such methods.
- 4) During such times that dumpsters or portable storage units in or upon any street or public grounds or upon private property are not actively being filled or emptied with materials, all dumpsters and portable storage units shall be covered by tarpaulin or other secured material, as approved by Zoning Officer or designated representative to prevent debris from blowing out of the container.

F) GENERAL PLACEMENT.

- 1) Visibility
 - a) Dumpsters or portable storage units in or upon any street or public grounds shall not be placed closer than 40 feet from any intersection. The Zoning Officer or designated representative must approve the proposed location of any dumpsters or portable storage units in or upon any street or public grounds.
 - b) A placard or decal shall be affixed to each dumpster or portable storage units in or upon any street or public grounds or upon private property until such time as the dumpster or portable storage facility is removed. Such placard or decal shall have one or more warning signs of a contrasting color to identify that the container is dangerous, that children should be kept away, that playing in, on or about the dumpster or portable storage facility is prohibited.
 - c) Dumpsters or portable storage units in or upon any street or public grounds shall be visible at night from all angles of traffic flow. Means to provide nighttime visibility include, but are not limited to, the use of reflecting tape at least 2 inches in width, reflectors, cones or other methods as approved by the Zoning Officer or designated representative.
 - d) When required by the City Engineer, additional traffic control devices meeting the latest US Department of Transportation Federal Highway Administration Manual on Uniform Traffic Control

Devices (MUTCD) standard shall be placed on the street to warn traffic of obstacles on the street.

- 2) All required visibility devices and/or signage shall be provided by the applicant owner, agent, contractor, employer or permit holder.
- G) EMERGENCY REMOVAL. In the event of an emergency, any dumpsters or portable storage units in or upon any street or public grounds or upon private property may be removed by the Zoning Officer or designated representative, and/or police, fire, or public utility personnel. The city shall not be liable for any loss or damage caused by such emergency removal.
- H) USE RESTRICTIONS.
 - 1) No hazardous material or organic waste shall be placed in a dumpster or portable storage facility.
 - 2) It shall be the responsibility of the permit holder to maintain the dumpster or storage unit rodent, vermin and insect free.
 - 3) Any person who violates the restrictions set forth herein may be held liable for such conduct, which liability is in addition to any other penalties or sanctions that may be imposed.
- I) DUTY TO REMOVE. It shall be the responsibility of the applicant, owner, agent, contractor, employer, or permit holder to remove the dumpster or portable storage unit prior to the expiration of the permit, or when ordered to by authorized city personnel. The city or designee shall have the right to enter upon any street, public grounds or upon private property or any lot or parcel of land for the purpose of removing any dumpster or portable storage unit remaining after the permit has expired. All costs of removal, including an administrative fee to defray costs of enforcing this section, will be assessed to the applicant, owner, agent, contractor, employer, or permit holder, except those incurred for emergency removal.
- J) PENALTY. Any person who violates the restrictions set forth in this 4.02 may be subject to an administrative fee established by resolution of the city Council and removal costs incurred by the city, and shall be in addition to the required permit fees. Violations of this ordinance shall also be subject to a fine in an amount set by resolution and not to exceed the maximum amount allowed by state law or by imprisonment not exceeding 30 days or by both the fine and imprisonment
- L) SAVING CLAUSE. In the event that any part of this ordinance is declared, by a duly authorized court of law, to be unconstitutional, in conflict with South Dakota Codified Laws, or in Conflict with the Administrative Rules of South Dakota, such part of this ordinance shall become null and void. In the event of such a finding against a part of this ordinance, the remainder of this ordinance shall continue to be effective.
- K) SEPARABILITY. All prior ordinances or parts of prior ordinances in conflict with the provisions of this ordinance are hereby repealed.

Mayor

ATTEST:

Finance Officer

First Reading: June 16, 2014
Second Reading: July 7, 2014
Publication Date: July 25, 2014
Effective Date: August 14, 2014