

ORDINANCE #250

A SOLID WASTE ORDINANCE OF THE CITY OF ADAMS TO PROVIDE DEFINITIONS AND PROVISIONS FOR CODE ENFORCEMENT OF SOLID WASTE WITHIN THE CITY LIMITS AND DECLARING AN EMERGENCY

Whereas, the City of Adams is entering an Intergovernmental Agreement with the County of Umatilla to provide code enforcement; and

Whereas, the County of Umatilla recommended adoption of portions of their solid waste ordinance for enforcement; and

Whereas, the City of Adams has approved a budget line item for expenditures relating to a Code Enforcement Officer contracted from Umatilla County; and

NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF ADAMS ORDAINS AS FOLLOWS:

SECTION 1. DEFINITIONS.

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

BOARD. The Common Council of the City of Adams

COLLECTION VEHICLE. Any vehicle regularly used to collect or transport solid waste, or used for that purpose for compensation.

COMMITTEE. The Solid Waste Committee established by this chapter and/or the Common Council of the City of Adams.

COMPENSATION. Any consideration in money, goods or services paid for service including, but not limited to, direct or indirect compensation by tenants, licensees, or similar persons.

COMPOSTING FACILITY. A site or facility which utilizes organic solid waste or mixed solid waste to produce useful product through a managed process of controlled biological decomposition. Composting may include amendments beneficial to the composting process. Vermiculture, vermincomposting, and agricultural composting operations are considered composting facilities.

CONSTRUCTION AND DEMOLITION LANDFILL. A landfill which receives only construction and demolition waste.

DISPOSE OR DISPOSAL. Accumulation, storage, collection, transportation and final disposal of solid wastes.

DISPOSAL SITE. Land and facilities used for the disposal, handling, treatment or transfer of or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, land application units (except as exempted by OAR 34-093-0030(83)(b)), transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site; but the term does not include a facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste; a facility subject to the permit requirements of ORS468B.050; a site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar non-decomposable material, unless the site is used by the public either directly or through a collection service; or a site operated by a wrecker issued a certificate under ORS822.110.

FRANCHISE. Includes a franchise, certificate, contract or license issued by a local government unit authorizing a person to provide solid waste management services. (ORS 459.005), A franchise to provide service issued by the Board pursuant to this ordinance.

FRANCHISE, COLLECTION. A franchise to collect or transport solid waste.

FRANCHISE, DISPOSAL. A franchise to create, maintain or operate a disposal site, including a transfer station.

HAZARDOUS WASTE. The definition contained in ORS 466.005 shall apply to this ordinance.

HEALTH OFFICER. The County Public Health Officer appointed under ORS 431.418.

INCINERATOR. A device used for the reduction of combustible solid wastes by burning under conditions of controlled air flow and temperature.

INDUSTRIAL WASTE LANDFILL. A landfill which received only a specific type or combination of industrial waste.

INFECTIOUS WASTE. Biological waste, including medical waste, is described as:

(1) Blood and blood products, excretions, exudates, secretions, suctionings and other body fluids that cannot be directly discarded into a municipal sewer system, including solid or liquid waste from renal dialysis and waste materials reasonably contaminated with blood or body fluids;

(2) Cultures and stocks of etiologic agents and associated biologicals, including specimen cultures and disks and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals and serums and discarded live and attenuated vaccines; but does not include throat and urine cultures;

(3) Sharps that have been removed from their original sterile containers, including needles, I.V. tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes;

(4) Pathological waste, including biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research, the bedding of the animals and other waste from such animals. Pathological waste does not include formaldehyde, other preservative agents, or hazardous waste.

LANDFILL. A facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.

MATERIAL RECOVERY FACILITY. A solid waste management facility which separates materials for the purpose of recycling from an incoming mixed solid waste stream by using manual and/or mechanical methods, or a facility at which previously separated recyclables are collected.

MUNICIPAL SOLID WASTE LANDFILL. A discrete area of land or an excavation that receives domestic solid waste, and that is not a land application unit, surface impoundment, injection well, or waste pile. It may also receive other types of wastes such as nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction and demolition waste and industrial solid waste.

PERSON. Any person, natural or otherwise, including an individual, corporation, association, firm, partnership or joint stock company.

PUTRESCIBLE WASTE. Organic materials that can decompose and may give rise to foul smelling products, or create a health hazard, or which are capable of attracting or providing food for potential disease carriers such as birds, rodents, flies and other vectors.

RECYCLING. The process by which waste materials are transformed into new products in such a manner that the original products lose their identity. It shall, also, include the collection, transportation or storage of products by other than the original user or consumer giving rise to the product being in the stream of commerce for collection, disposal, recycling, resource recovery or utilization.

REGULATIONS. Regulations promulgated by the Board pursuant to this ordinance.

RESOURCE RECOVERY. Means any process of obtaining from solid waste and waste, materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose.

RULES. Rules promulgated by state agencies pursuant to ORS Chapter 459.

SANITARY LANDFILL. A disposal site operated by means of compacting and covering solid waste at least once each business day in compliance with applicable Oregon Administrative Rules.

SERVICE. The collection, transportation or disposal of solid waste for compensation.

SERVICE AREA. The geographical area in which service, other than operation of a disposal site, is provided by any person.

SOLID WASTE. All putrescible and non-putrescible wastes, whether in solid or in liquid form, except liquid-carried industrial wastes or sewage hauled as an incidental part of a septic tank or cesspool cleaning service, but including garbage, rubbish, ashes, sewage sludge, street refuse, industrial wastes, swill, demolition and construction wastes, inoperable or unlicensed vehicles store on the site for a period in excess of 90 days, or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, dead animals, infectious waste and other discarded solid materials. In the event a citation or warning has been issued on the property, the time period for any new inoperable or unlicensed vehicles does not apply.

SOLID WASTE MANAGEMENT. The management of the accumulation, storage, collection, transportation, treatment, processing and final disposal or utilization of solid waste and waste or resource recovery from solid waste and facilities necessary or convenient to those activities.

TRANSFER STATION. A fixed or mobile facility other than a collection vehicle where solid waste is taken from a smaller collection vehicle and placed in a larger transportation unit for transport to a final disposal location.

UTILIZE, UTILIZATION, UTILIZATION OF SOLID WASTE, or WASTE. Productive use through recycling, reuse, salvage, resource recovery, energy recovery, or landfilling for reclamation, habitation, or rehabilitation of land.

WASTE. Putrescible and non-putrescible waste, hazardous waste, infectious waste, solid waste, and any other matter or material that is: (1) hazardous to the health and safety of the public; (2) annoying, offensive or unsightly; (3) inconsistent with the zoning and dominant characteristics of the neighborhood; or (4) without substantial economic value or functional use.

WOOD WASTE LANDFILL. A landfill which receives primarily wood waste.

SECTION 2 ACCUMULATION, STOCKPILING, AND DUMPING PROHIBITED; EXEMPTION.

(A) Stockpiling prohibited. No person shall deposit, accumulate, store, maintain, or display waste on any property in the City of Adams, except as specifically permitted by this ordinance, or as authorized by the City of Adams. Violation of this prohibition may be enforced or abated as provided in Section 3 of this ordinance.

(B) Illegal disposal prohibited. No person shall dispose of waste in the City of Adams, except for solid waste at a disposal site operated under a franchise issued by local government or as otherwise authorized by state law.

(C) No owner or occupant of any land in the City of Adams shall authorize, permit or suffer violation of any provision of this chapter.

(D) Exemptions. The prohibitions of this chapter to not apply to the following:

(1) The temporary accumulation of limited quantities of waste in standard garbage or recycling collection receptacles provided for that purpose and pending disposal or recycling in a legal manner, provided that the waste does not create offensive odors, unsightly conditions, or hazards to health.

(2) The accumulation and distribution of compost, silage, or livestock manure in conjunction with normal produce, crop, or animal husbandry activities, so long as it does not physically encroach upon the land of another, is exempted from obtaining a solid waste permit from the Department of Environmental Quality because it meets exemption criteria set forth in OAR 340-093-0050(3)(d), and is conducted in a reasonable manner so as to minimize any offensive odor, unsightly condition, or hazard to health.

(3) It shall be a question of law whether the above exemptions apply to a particular case and whether the provisions of this chapter have been complied with. In making this determination, the trier of law shall consider community standards and practices, all the provisions of the ordinances of Umatilla County, state law and the circumstances of each case.

SECTION 3 ENFORCEMENT OF PROVISIONS

(A) *Illegal dumping and stockpiling violations.* The provisions of Section 2 of this ordinance shall be enforced through the procedures set out in Sections 6-18 of this ordinance, or at the option of the City of Adams, through the provisions of the IGA with Umatilla County. The Solid Waste Committee shall be notified of all solid waste enforcement actions.

(B) *Other violations.* The provisions of this ordinance shall be enforced by Umatilla County Code Enforcement upon recommendation by the Solid Waste Committee, through procedures set forth elsewhere in this ordinance.

SECTION 4 VIOLATIONS DECLARED A NUISANCE, REMEDIES

(A) The accumulation, storage, collection, maintenance, transportation, display or disposal of wastes by any person in violation of this ordinance or regulations promulgated hereunder, is hereby declared a nuisance. The City of Adams, by and through any agent designated by the Adams City Council, may institute legal proceedings to temporarily or permanently enjoin or abate such nuisances.

(B) No person in charge or control of a property may permit, and no person may cause to exist, the accumulation, storage, collections, maintenance, or display of waste that is an imminent threat to the public health, safety, or welfare, or to the environment. Such imminent nuisances may be summarily abated as provide in Section 16.

SECTION 5 APPEAL TO CIRCUIT COURT

Any order of the Board under this ordinance may be reviewed through a writ of review by the Circuit Court of the State of Oregon for the city.

SECTION 6 INITIATION OF ENFORCEMENT PROCEDURES FOR ILLEGAL DUMPING AND STOCKPILING OF WASTE

Enforcement procedures may be initiated by any of the following: the Code Enforcement Officer; any law enforcement officer; or the written complaint of any person setting forth:

- (A) The location or address where the suspected violations occurs;
- (B) A brief description of the nature of the suspected violation; and
- (C) The name of the responsible party(s), if known.

SECTION 7 RIGHT OF ENTRY FOR INVESTIGATION

In making an investigation, the Code Enforcement Officer, or any law enforcement officer, shall have the right of entry at reasonable times to determine the existence of a violation of this ordinance and to insure compliance with this ordinance.

SECTION 8 WARNING OPTIONAL

(A) A warning of a violation may be issued, at the discretion of the enforcing official, based on one or more of the following circumstances:

- (1) The gravity of the violation(s);
- (2) The degree to which the violation(s) affects others;
- (3) Whether the person in violation knew or reasonably should have known that a condition or action is in violation of a City of Adams ordinance;
- (4) Whether there is a history of previous violations or enforcement actions concerning the violator or the property in violation;
- (5) The presence or absence of other mitigating factors.

(B) Warnings may be given in person or by mail to the owner and/or occupant of property in violation of this ordinance and the warning may include such information as the enforcing official deems appropriate.

SECTION 9 CONSENT AGREEMENTS

(A) Contents. The City and the responsible party(s) may enter into a consent agreement prior to the issuance of a citation. The consent agreement shall specify the corrections necessary to cure the violation(s). As long as the responsible party complies with the consent agreement, the enforcement action will be suspended. If the responsible party fails in any manner to comply with the consent agreement, the enforcement action may be resumed at the point at which it was suspended.

(B) Signers. The responsible party(s) and its attorney, if any, will sign the consent agreement. The County Counsel will approve and sign the consent agreement on behalf of the City.

(C) Violation of the Consent Agreement. Failure to comply with the consent agreement is a separate violation for which the City may issue a separate citation and seek additional penalties. In addition, the City may seek additional remedies and penalties provided for by this or any other ordinance or law.

SECTION 10 CITATION, COMPLAINT AND SUMMONS

(A) A Citation, Complaint and Summons shall be used to initiate formal enforcement action against a violator(s).

(B) The Citation, Complaint and Summons shall state the following:

- (1) The name and address of the person(s) being charged with a violation.
- (2) The date of the violation and whether or not it is a continuing violation.

(3) The street address or a description sufficient for identification of the land upon which the violation has occurred or is occurring.

(4) A summary description of the alleged violation.

(C) The Summons shall require the person charged with a violation to appear and answer the charge and shall include the following

(1) The date, time and location of the Circuit Court before which the person(s) charged must appear;

(2) That failure to appear at the hearing may result in the person(s) named being found in contempt of court, and/or the arrest of the person(s) named;

(3) The address and phone number where the Code Enforcement Officer may be reached;

(4) The date of the citation;

(5) The signature of the individual initiating formal enforcement action.

SECTION 11 SERVICE

The Citation, Complaint and Summons shall be served on the party(s) charged, in person, or by certified mail with return receipt, or by regular mail if the certified mail is refused. If the party(s) to whom the Summons is directed cannot be served by any of these methods, then the Citation, Complaint and Summons shall be served by posting a copy conspicuously on the affected property. Proof of service then shall be made by a certified declaration of the person effecting the service, declaring time and date of service and the manner in which the service was made.

SECTION 12 ACTION BY THE CIRCUIT COURT

(A) Pursuant to ORS 153.800 through 153.810, the Presiding Judge may elect to make a first offense of this ordinance subject to the jurisdiction of the Violations Bureau.

(B) In the event the responsible party(s) plead or are found guilty of the civil violation(s) described in the citation, the Court, in addition to assessing monetary penalties, may set a date by which the responsible party(s) must demonstrate to the Court's satisfaction that the violation has been fully corrected.

(C) In the event the responsible party(s) pleads guilty to a civil violation described in the citation, the Court shall have the discretion to reduce, suspend, or waive the monetary penalty if the responsible party(s) fully corrects the violation within the deadline set by the Court.

(D) In the event that the responsible party(s) fails to appear before the Circuit Court for the hearing, or fails to complete the Court ordered action required to correct the violation(s), the City may request that the Court hold the responsible party(s) in contempt of court and issue a warrant for their arrest.

SECTION 13 MONETARY PENALTIES

(A) The maximum monetary penalty for each separate violation of this ordinance is \$500.00 for non-continuing violation and \$1000.00 for a continuing violation.

(B) Failure to correct the violation by the Court-ordered date will be an additional violation. Continued failure to correct the violation each week following the Court-ordered date will be an additional violation. The Court may impose monetary penalties for these additional violations as follows:

(1) \$200.00 per week for the first week.

(2) \$300.00 per week for the second week.

(3) \$400.00 per week for the third week.

(4) \$500.00 per week for any week beyond the third week.

(C) In the event that the responsible party(s) fails to pay any monetary penalties imposed by the Court within the time set by the Court, the City may initiate collection proceedings as described in Section 14, and at the expiration of 60 days, may also file and record the order for payment as a lien against the property in violation in accordance with ORS 30.460 and Section 17 of this ordinance.

SECTION 14 COLLECTION PROCEEDINGS

In the event that the responsible party(s) fails to pay the monetary penalties imposed by the Court, the City may initiate collection proceedings as described in this section.

(A) The City, or authorized agent, shall send by certified mail with return receipt, and by regular mail if the certified mail is refused, to the responsible party(s) a notice that they must pay the fine imposed by the Court in full within 30 days or be summoned to appear in Court for contempt of court.

(B) If the fine is not paid in full within 30 days, the City, or authorized agent, may issue a summons to the responsible party(s) to appear in Court on the charge of contempt of court.

(C) If the responsible party(s) fails to appear in court, or is found by the Court to be in contempt of court, the City, or authorized agent, may request that the Court issue a warrant for their arrest, with bail not to exceed the amount of the unpaid fine.

SECTION 15 CONTINUED DUTY TO CORRECT

Payment of the fine imposed by the Court does not relieve the person(s) to whom the citation was issued of the duty to correct the violation.

SECTION 16 ABATEMENT BY THE CITY, OR AUTHORIZED AGENT

(A) The City, or authorized agent, may abate the violation, or cause the violation to be abated, when:

(1) The terms of a consent agreement, pursuant to Section 9, have not been met; or

(2) A citation, complaint, and summons has been issued pursuant to Section 11, a hearing has been held pursuant to Section 12, the responsible party(s) has pleaded guilty or been found guilty of a violation and the corrective action required by the Court has not been completed by the date specified by the Court; or

(3) The violation is subject to summary abatement pursuant to Section 4 (B) and/or Section 16(C).

(B) The decision to proceed to abatement by the City, or authorized agent, shall be made by the Adams City Council.

(C) Summary Abatement. Whenever a violation causes a condition the continued existence of which constitutes an immediate or emergent threat to the public health, safety, or welfare, or to the environment, the City, or authorized agent, may summarily and with prior notice, abate the condition. Notice of such abatement, including the reason for it, shall be given to the person(s) responsible for the violation as soon as reasonably possible.

(D) Using any lawful means, the City or its agents may enter upon the subject property and may remove or correct a violation which is the subject of the abatement. The City, or authorized agent, may seek such judicial process as it deems necessary to effect the abatement.

(E) Interference Prohibited. No person shall obstruct, impede, or interfere with the City or its agents, or with any person who owns, or holds any interest or estate in any property, in performing any acts necessary to correct a violation.

(F) The City, or authorized agent, shall maintain a record of all expenses incurred in abating a waste violation. The record shall include the costs of personal services, materials and an additional charge of 10% for the administrative overhead.

(G) A notice of assessment for the cost of abatement shall be sent by certified mail with return receipt to the responsible party(s). The notice shall contain:

- (1) The total cost of abatement, including the administrative overhead;
- (2) A statement that the cost of abatement will become a lien against the property unless paid in 60 days;
- (3) A statement that if the owner or agent in charge of the property objects to the cost of abatement, he or she may file a notice of objection with the City, or authorized agent, within two days of the date of the notice;
- (4) Notice that a fee for recording the cost of abatement as a lien against the property may be added to the cost of the abatement.

(H) Objections to the proposed assessment shall be heard and determined by the Adams City Council, or authorized agent.

(I) If the costs of abatement are not paid within 60 days from the date of the notice of costs, or in an objection was timely filed, from the date of the Board's determination of costs, the costs of abatement shall be filed and recorded as a lien upon the property subject to abatement in accordance with ORS 30.460 and Section 17 of this ordinance.

SECTION 17 LIENS

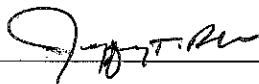
(A) Liens filed in accordance with Section 13(C) and Section 16(I) shall be enforced in the same manner as liens for assessments are enforced and shall bear interest at a rate determined by Order of the Adams City Council. The interest shall commence on the date of entry of the lien in a special lien docket, which shall be maintained by the Office of County Records solely for that purpose.

(B) An error in the name of the owner or person in charge of the property shall not void the assessment nor shall a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

EMERGENCY. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect on July 1, 2016.

PASSED by the City Council and approved by the Mayor on June 22, 2016.

APPROVED: _____



Mayor *Pro Tem*

ATTEST: _____



City Recorder