

ORDINANCE NO. 36-2022

AN ORDINANCE CONCERNING SOLID WASTE REMOVAL TO AMEND THE *CITY OF TEXARKANA, ARKANSAS, CODE OF ORDINANCES* TO INCREASE RESIDENTIAL RATES; IMPLEMENT AN ANNUAL CPI ADJUSTMENT FORMULA; MAKE PERMANENT CERTAIN TEMPORARY RATES; IMPLEMENT A FUEL SURCHARGE; WAIVE COMPETITIVE BIDDING; AUTHORIZE CORRESPONDING AMENDMENTS TO EXISTING SOLID WASTE HAULER AGREEMENTS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, solid waste collection within the City of Texarkana, Arkansas, is divided into two zones and, at present, each zone is serviced by a different solid waste refuse hauler; and

WHEREAS, the Refuse Collection Contracts with each hauler are each set to expire on September 30, 2023; and

WHEREAS, the Solid Waste Management Committee met on November 21, 2022, and recommended that the Board of Directors implement increased residential solid waste consumer rates to account for the corresponding Consumer Price Index (CPI) increase coming into effect on January 1, 2023; implement an annual residential consumer rate CPI adjustment formula; make permanent certain temporary increases in commercial solid waste consumer rates; implement a fuel surcharge to offset the increased fuel expense associated with waste removal; authorize amendment to existing solid waste hauler contracts to account for the same; and

WHEREAS, the existing solid waste haulers are the sole haulers currently under contract with the City, serving certain designated and dedicated zones, with contracts to expire in September of next year; and

WHEREAS, under the circumstances, the current solid waste haulers are sole providers, modification of such existing contracts not lending itself or making practical of feasible competitive bidding; and

WHEREAS, it is necessary to waive any competitive bidding practices that might otherwise be required by applicable statute and ordinance as permitted by Ark. Code Ann. §14-47-138 and §2-27 of the *City of Texarkana, Arkansas, Code of Ordinances* (“the Code”); and

WHEREAS, the City Manager and staff recommend approval;

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Texarkana, Arkansas, that:

SECTION 1. Commencing January 1, 2023, the residential garbage collection removal rate contemplated by Section 22-5 of the Code shall increase by thirty-eight cents (\$0.38) per month.

SECTION 2.

(a) Section 22-5 of the Code is amended to add the following as subparagraph (d):
Commencing January 1, 2023, and on January 1, of each year thereafter occurring, charges due and payable under and set forth in Section 22-5 of this Code shall be increased by a percentage equal to the lesser of (i) three percent (3.00%), or, (ii) the percentage change in the Consumer Price Index statistics published by the United States Bureau of Labor, using the index entitled “Consumer Price Index - All Items and Major Group Figures for all Urban Consumers (CPI-U) South Region (1982-84 = 100)” (or the nearest comparable data on changes in the cost of living if such index is no longer published) with the change being determined by comparison of the identified CPI figure for January 1, of the immediately preceding year with that of January 1, of the current year.

(b) The City Manager is authorized to enter in an amendment to each residential waste hauling contract now in effect to implement the following provisions:

(i) Commencing January 1, 2023, and on January 1, of each year thereafter occurring during the term of this agreement, with or without request, the monthly service charge per residential unit then in effect shall increase, by a percentage equal to the lesser of (i) three percent (3.00%), or, (ii) the percentage change in the Consumer Price Index statistics published by the United States Bureau of Labor, using the index entitled “Consumer Price Index - All Items and Major Group Figures for all Urban Consumers (CPI-U) South Region (1982-84 = 100)” (or the nearest comparable data on changes in the cost of living if such index is no longer published) with the change under this option numbered 2. being determined by comparison of the

identified CPI figure for January 1 of the immediately preceding year and with that of January 1 of the current year;

(ii) Provided that, in no event shall the increase contemplated by (b)(i) immediately above have any effect or force unless and until allocation or appropriation of funds by the Board of Directors in an amount sufficient and adequate to reasonably pay the estimated expense of such corresponding annual increase through the end of the then existing term of such hauling contract, either by approval of the budget for the year of the increase or by separate appropriation

SECTION 3. The following is added as Section 22-8 of the Code:

Fuel Surcharge – Residential Garbage Collection. In order to offset the corresponding expense incurred by the City in connection with the cost of fuel associated with residential garbage removal, commencing January 1, 2022, and continuing thereafter, any fuel surcharge being paid to the residential garbage removal contractors under contract with the City shall be passed through and billed in the same manner as garbage collection charged pursuant to Section 22-5 of the Code.

SECTION 4. The City Manager is authorized to enter into an amendment to each residential waste hauler contract now in effect providing for the follow terms as relate to a residential solid waste removal fuel surcharge:

(a) The adjustments contemplated herein are based on the monthly average price of diesel fuel, as determined by reference to the Energy Information Administration of the US Department of Energy (EIA/DOE)'s Weekly Retail Diesel (On Highway) – (All Types) Prices for the Gulf Coast (PADD 3) for which Arkansas is a part. The EIA/DOE currently publishes these prices on their website at the following location: https://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_r30_w.htm. Once on the EIA website, ensure that the "Area" is set to "Gulf Coast PADD 3" and that the "Period" is set to "Monthly". The link will show the monthly diesel price for the last six months. If previous months are required, select the "View History" under "Diesel – (On Highway) All Types".

(b) Commencing January 1, 2023, the Contractor shall be entitled to a Residential Solid Waste Removal Fuel Surcharge, adjusted as follows:

(i) By an additional forty-one cents (\$0.41) per residential unit per month for each hereafter that the EIA/DOE's weekly retail diesel price is determined to be four dollars and thirty-one cents (\$4.31) to five dollars and fifty cents (\$5.50);

(ii) By an additional forty-eight cents (\$0.48) (above the increase immediately above) per residential unit for each month hereafter that the EIA/DOE's weekly retail diesel price is determined to be five dollars and fifty-one cents (\$5.51) to six dollars and fifty cents (\$6.50);

(iii) By an additional eight cents (\$0.08) (above the incremental increase immediately above) per residential unit for each month hereafter that

the EIA/DOE's weekly retail diesel price is determined to be six dollars and fifty-one cents (\$6.51) to seven dollars and fifty cents (\$7.50); and

(iv) By an additional three cents (\$0.03) (above the incremental increase immediately above) per residential unit for each month hereafter that the EIA/DOE's weekly retail diesel price is determined to be seven dollars and fifty-one cents (\$7.51) or greater.

(c) In no event shall the Residential Solid Waste Removal Fuel Surcharge be less than zero.

(d) The Residential Solid Waste Removal Fuel Surcharge is in addition to any annual CPI Rate Adjustment.

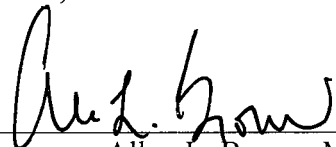
SECTION 5. Section 22-26 of the Code is amended by renumbering the existing subparagraph (4) as subparagraph (5) and inserting the following provision as subparagraph (4):

(4) On December 31, 2022, the fees then being charged pursuant to this Section 22-26, but not including any temporary increases then in effect, will increase by ten percent (10%).

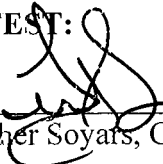
SECTION 6. Any competitive bidding practices that may be required by applicable law and ordinance are waived.

SECTION 7. This ordinance being necessary for the preservation of the public peace, health, and safety, and, specifically, but without limitation, to maintain necessary solid waste removal services, an emergency is therefore declared to exist; and this ordinance shall be in full force and effect upon passage.

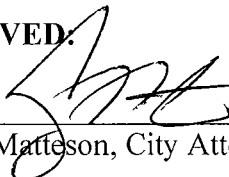
PASSED AND APPROVED this 19th day of December, 2022.


Allen L. Brown, Mayor

ATTEST:


Heather Soyars, City Clerk

APPROVED:


George Matteson, City Attorney