

**ORDINANCE NO. 2023-12-01**

**AN ORDINANCE OF THE TOWN OF POETRY, TEXAS, AMENDING ORDINANCE NO. 2021-10-01 RELATING TO THE COLLECTION OF SOLID WASTE FROM CUSTOMERS WITHIN THE TOWN; ADOPTING EXCLUSIVITY SUCH THAT ONLY ONE VENDOR MAY SERVE POLYCARTS AND SMALL DUMPSTER CUSTOMERS; REQUIRING A FRANCHISE AGREEMENT FOR THE USE OF THE TOWN STREETS TO CONDUCT SUCH BUSINESS; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS OF THIS ORDINANCE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on November 16, 2021, the Town Council of the Town of Poetry, Texas, adopted Ordinance No. 2021-10-01, relating to the collection of solid waste and adopting regulations pertaining thereto; and

**WHEREAS**, the Town Council finds and determines that since the adoption of Ordinance No. 2021-10-01, there are numerous solid waste vendors conducting business in the Town, some of whom do not have the appropriate permit or franchise agreement, have failed to renew permits or agreements, and, based on the number and nature of complaints received by the Town, are performing collection services poorly and inadequately; and

**WHEREAS**, it is in the public interest to ensure that solid waste collection service is provided efficiently and effectively to the citizens of the Town; and

**WHEREAS**, the Town Council desires to retain one exclusive vendor to collect solid waste from residential, polycarts and small dumpster customers within the Town, and that the Council's selection of the most qualified vendor will minimize the number of vendors using Town streets, will enable a more effective and efficient collection of residential municipal solid waste, and will enable the Town to more effectively monitor and regulate the collection of solid waste; and

**WHEREAS**, the Town Council finds and determines that a public need exists to amend regulations relating to the collection of solid waste in the Town's limits in accordance with the terms of this Ordinance in order to protect the public streets and provide for the general health, safety and welfare of the citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF POETRY, TEXAS:**

**SECTION 1.** That the Town Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the Town Council hereby incorporates

such recitals as part of this Ordinance.

**SECTION 2.** That Ordinance 2021-10-01, adopted by the Town Council of the Town of Poetry, Texas, on or about November 16, 2021, be and is hereby amended by amending Subsection A of Section 2 (“Permit And Franchise Agreement Required”) to consolidate both Subsection A’s into one, and to amend the existing language to enable exclusivity in solid waste collections, such that Subsection A of Section 2 of Ordinance No. 2023-10-01 shall read in its entirety as follows:

**A. Exclusivity; Permit and Franchise Agreement.**

- (1) Unless excepted herein, it shall be unlawful for any person, firm or corporation to collect municipal solid waste or to engage in the business of municipal solid waste collection without first having a valid permit issued by Town and a franchise agreement with the Town.
- (2) Small Collections. The Town Council shall select one Collector based on demonstrated competence to exclusively provide Municipal Solid Waste collections for Small Collections according to **Addendum A**. As used herein, “Small Collections” means 1) bulky trash collected from residences, and 2) solid waste collected from receptacles that are designed to contain 10 cubic yards or less, including roll-off containers, dumpsters, polycarts, and other receptacles, regardless of whether the source is residential or commercial. Upon the Council’s selection, all existing permits and franchise agreements with all persons and entities providing solid waste collection services to residential customers within the Town shall be and are hereby revoked. It shall be unlawful for any person, firm or corporation to collect municipal solid waste or to engage in the business of Small Collection of municipal solid waste collection other than the exclusive vendor selected by the Town.
- (3) Large Collections (roll-off containers of greater than 10 cubic yards). No Collector, other than the those who have signed up and meet requirements of **Addendum B**, shall collect any municipal solid waste within the corporate limits of the Town without first applying for and obtaining a permit to do so from the Mayor or his/her designee. Such permit shall be on such forms as the Town may determine. An annual permit fee in the amount of \$100 is due and payable at the time of application for a permit. The Mayor or his/her designee may provide notice of noncompliance with these regulations and allow ten (10) days for compliance. However, failure of the Town to provide this notice does not preclude the Town from initiating citations and pursuing action pursuant to Chapter 54 of the Texas Local Government Code, as amended, against any collector in violation of the

Town's solid waste regulations.

- (4) In addition to the foregoing permit requirement, any person, firm corporation collecting solid waste within the Town shall first enter into a Franchise Agreement with the Town. It shall be unlawful for any person, firm or corporation to collect municipal solid waste or to engage in the business of municipal solid waste collection without first having entered into a Franchise Agreement.

**SECTION 3** That Subsection A of Section 2 of Ordinance No. 2023-10-01 be and is hereby amended in accordance with the foregoing, without amendment repeal or change to any other part or provision of Ordinance No. 2021-10-01. All ordinances of the Town of Poetry, Texas, in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the Town of Poetry not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 4.** That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

**SECTION 5.** That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of other ordinances of the Town.

**SECTION 6.** That any person, firm or corporation violating any of the provisions or terms of this ordinance shall, upon conviction, be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

**SECTION 7.** That this ordinance shall take effect immediately from and after its passage

and the publication of the caption, as the law in such cases provides.

**DULY PASSED AND APPROVED** by the Town Council of the Town of Poetry, Texas,

on this the 21<sup>st</sup> day of December, 2023.

APPROVED:

Jara Senkevich  
MAYOR

ATTEST:

Sheresa Schwabes  
TOWN SECRETARY

APPROVED AS TO FORM:

[Signature]

TOWN ATTORNEY

