CITY OF MOAB ORDINANCE #2019-15

AN ORDINANCE AMENDING THE CITY OF MOAB MUNICIPAL CODE, SECTIONS 8.04.010 PERTAINING TO DEFINITIONS; AMENDING DEFINITIONS; AMENDING SECTION 8.04.020 MANDATORY COLLECTION; AND SECTION 8.04.030 RATES AND CHARGES

The following findings describe the intent and purpose of this ordinance: The City has enacted Chapter 8.04, Solid Waste of the Moab Municipal Code, which governs solid waste collection. The City approved amending the code to include recycling services and rate modifications by Resolution 07-2019.

Therefore, the City of Moab replaces the following language in the Code:

Chapter 8.04
SOLID WASTE

Sections:

ARTICLE I. SOLID WASTE COLLECTION

8.04.010 Definitions.
8.04.020 Mandatory collection.
8.04.030 Rates and charges.
8.04.040 Automated collection and point of collection.
8.04.050 Collection schedule; time of placement.
8.04.060 Rules and regulations.

ARTICLE II. HEALTH AND SAFETY

8.04.065 Distribution of disposable plastic bags prohibited.
8.04.070 Accumulations and disposal on property prohibited.
8.04.080 Burning prohibited.
8.04.090 Dumping prohibited.
8.04.100 Pre-enforcement notice.
8.04.110 Abatement.
8.04.120 Collection.
8.04.130 Criminal enforcement.
8.04.140 Successive violations.

ARTICLE I. SOLID WASTE COLLECTION

8.04.010 Definitions.
The following definitions shall apply to this chapter:

“Approved commercial garbage containers” means contractor-furnished commercial bins (two-yard minimum capacity). These containers are designed for automated collection. All containers
have permanently attached, tight-fitting lids, and will meet all state of Utah Department of Health regulations.

“Approved container” means containers approved by the city in its solid waste rate resolution, which are designed and suitable for automated solid waste collection.

“Approved residential garbage containers” means ninety-five-gallon containers provided by the city. These containers are designed specifically for automated collection, and are equipped with wheels for easy movement by residents and other city users. All containers have permanently attached, tight-fitting lids. Such containers may be referred to as “Standard.”

“Automated collection” means solid waste collection using specialized trucks capable of lifting and emptying specially designed solid waste receptacles.

“Business” means a location or structure lawfully used or occupied, on either a temporary or permanent basis, for purposes of carrying on a trade or profession for a profit.

“Centralized collection” means a group of residences, as defined in this chapter, receiving solid waste collection at a single point utilizing a dumpster or other approved container, rather than individual cans kept by each dwelling.

“City” means the city of Moab and all territory within its municipal limits as same may change from time to time.

“Commercial” means all classes of customers receiving solid waste collection service which, however denominated, are not classified as a residence, including, without limitation, offices, restaurants, hotels, resorts, motels, campgrounds, inns, government buildings, churches, hospitals, schools, meeting facilities, retail establishments, industrial facilities, workshops, warehouses, garages, businesses or any other type of nonresidential land use.

“Construction debris” includes asphalt, wood, porcelain, and concrete used in remodels or new buildings.

“Contractor” means the person authorized by contract with the city to collect and dispose of solid waste and recycling generated within the city limits.

“Disposable plastic bag” means a bag made from either noncompostable plastic or compostable plastic that is less than 2.25 mil in thickness according to ASTM D6988-08 or ISO 4593-1993 or ISO 4591:1992 standards, and which is provided by a vendor to a customer at the point of sale for the purpose of transporting goods or merchandise. The term “disposable plastic bag” does not include:

1. Bags provided by pharmacists to contain prescription drugs;

2. Newspaper bags, door hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags and intended for food storage, garbage, pet waste, or yard waste;

3. Reusable bags that are made of cloth or other machine washable fabric that have handles,
or a durable plastic bag that is at least 2.25 mil thick with handles and specifically designed and manufactured for multiple uses. Reusable bags shall not contain lead, cadmium, or any other heavy metal in toxic amounts;

4. Disposable paper bags; or

5. Bags used by consumers inside retail stores to:
   a. Package bulk items, such as produce, nuts, grains, candy or small hardware items;
   b. Contain or wrap frozen foods, meat, or fish, regardless of whether the items are prepackaged; or
   c. Contain or wrap flowers, potted plants, or other items where moisture may be a problem.

“Owner” means a person, firm, partnership, corporation, or other entity that exercises control over a retail store.

“Residence” or “residential,” as applied in this chapter, means those solid waste customers consisting of a house, apartment, town home, condominium, mobile home, or other structure which is lawfully occupied as a human dwelling, but excluding hotels, motels, inns, or other dwellings lawfully operated as overnight accommodations.

“Retail store” means a place of business that sells any goods or household items to the ultimate consumer including, but not limited to: grocery stores; convenience stores; drugstores; hardware stores; and similar outlets selling general merchandise of any kind, apparel, food (whether prepared or not), beverages, tools, recreational products, or the like. Retail stores include premises that may be operated temporarily, seasonally, or for a nonprofit purpose.

“Organic waste” means food scraps, organic waste and yard debris that can be used to amend soils as compost to absorb storm water, resist droughts and add nutrients to lawns and gardens.

“Recyclable” refers to material that can be reused and repurposed including cardboard, glass, paper, plastic or wood.

“Solid waste” means commercial or residential garbage, refuse, trash, or other discarded material, including liquids and semisolid materials but excluding the types of waste described in “special waste.”

“Special waste” means the following materials:

1. Medical or infectious waste;
2. Animal carcasses;
3. Discarded appliances;
4. Construction debris;
5. Motor vehicles;
6. Sewage, sludge, or septage (i.e., human or animal waste that may contain parasites);
7. Explosives;
8. Toxic or hazardous wastes as defined by Utah or federal law;
9. Used motor oil;
10. Mining slag, drilling mud, or other wastes from mineral extraction or industrial operations;
11. Ashes or other material which is combusting;
12. Bulky materials which cannot be collected by the contractor using automated collection pursuant to the terms of the franchise agreement;
13. Restaurant grease; and
14. Large metal objects. (Ord. 18-17 Att. A (part), 2018*; Ord. 04-06 (part), 2004)

*Code Revisor’s Note: Ord. 18-17, which adds definitions for “disposable plastic bag,” “retail store” and “owner” to this section, takes effect January 1, 2019.

**8.04.020 Mandatory collection.**
Solid waste shall only be conducted within the city limits by the approved contractor pursuant to the terms of a solid waste collection franchise agreement with the city. As defined in this chapter, every residence or commercial establishment shall be required to receive and pay for solid waste collection services, including residential recycling with an opt out provision from the city.

Nothing in this chapter shall be construed to prohibit a person from hauling residential or commercial solid waste or special waste generated from a location owned by that person to an authorized disposal facility, provided that the owner shall at all times remain liable for solid waste collection service charges assessed by the city pursuant to this chapter. (Ord. 04-06 (part), 2004)

**8.04.030 Rates and charges.**
Rates for solid waste collection shall be established and modified from time to time by the City Council. Every solid waste customer within city limits, whether residential or commercial, receiving culinary water or sewer service from the city, shall be billed for solid waste service (i.e., trash and recycling) together with water or sewer service charges. As provided for water and sewer service charges, the owner of every property required to receive solid waste collection
services shall be required to execute an application agreeing to be liable for all charges for service. In the event that a property owner fails or refuses to pay for solid waste service, the city shall be authorized to discontinue providing solid waste service and to disconnect the culinary water service connection to the property until all accrued charges have been paid in full. Prior to terminating service, the city shall deliver a written notice of default to the owner advising that if payment is not made in full by a date specified, the city will discontinue solid waste and culinary water service to the property. Any person wishing to contest a notice issued under this section may request a hearing before the city council pursuant to Section 8.04.100 of this chapter.

A. Solid waste charges may be suspended for residential customers for periods of time in excess of thirty days when the residence is unoccupied, provided that the property owner provides written notice to the city treasurer of same. During the period the residence is unoccupied, culinary water service and solid waste service shall be suspended. In no case shall solid waste service be suspended pursuant to this subsection during a time in which the residence also receives culinary water service.

B. Each residential unit shall be billed separately for solid waste service, unless centralized collection is authorized pursuant to Section 8.04.040 of this chapter. Rates assessed on residential customers shall be assessed on a per unit basis.

C. In its discretion, the city may issue a refund to a customer due to a billing error, retroactive to a maximum of three months (without proration) from the date the correction is made.

D. The solid waste collection rate applicable to a given property shall be based upon the type of land use, whether commercial or residential, regardless of the type of container used by the customer. Properties with more than one land use shall be charged the higher applicable rate. (Ord. 04-06 (part), 2004)

8.04.040 Automated collection and point of collection.
All solid waste shall be deposited into approved containers for automated collection by the contractor. The point of collection shall be at the curb of a public street or alley. In the event that the property of the customer is not adjacent to a public street or alley, the customer shall place the container in the next most accessible location acceptable to the contractor, which may be on private property. Property owners shall allow the contractor reasonable access to their property for purposes of collection.

A. Centralized collection may be authorized by the city for residential customers where site constraints make individual can service impracticable, and where there is an individual property owner or entity that assumes liability for payment of all solid waste collection services. The city shall provide such authorization in writing. The rate owing for such service shall be based upon the centralized collection rate multiplied by the number of residential units. Residential customers utilizing centralized collection not authorized by the city shall pay the standard residential rate. (Ord. 04-06 (part), 2004)
8.04.050 Collection schedule; time of placement.
Collection of solid waste shall be pursuant to schedules established by the city and contractor, except that customers can request and pay for additional pickups in accordance with approved rates as needed. Solid waste shall not be placed out for pickup more than twenty-four hours before a scheduled pickup. Empty cans shall be promptly removed from the curb within twenty-four hours of pickup. (Ord. 04-06 (part), 2004)

8.04.060 Rules and regulations.
City staff may promulgate additional rules and regulations as are necessary or appropriate to implement this chapter. All such regulations shall be written and made available to the public. (Ord. 04-06 (part), 2004)

ARTICLE II. HEALTH AND SAFETY

8.04.065 Distribution of disposable plastic bags prohibited. Revised 9/18
A. It is unlawful for the owner of any retail store to distribute disposable plastic bags to customers at or before the point of sale. The owners of retail stores are encouraged to provide recyclable paper bags, reusable bags, or boxes to customers and establish an in-store recycling program that provides customers the opportunity to return clean carryout bags.

B. Retail stores distributing paper bags to customers shall use bags containing a minimum of forty percent recycled paper content.

C. The city manager or his/her designee(s) shall have the primary responsibility for enforcement of this section. If the city manager or his/her designee(s) determines that a violation of this section has occurred, he/she shall issue a written warning to the owner or manager of the retail store indicating that a violation has occurred, and allowing a reasonable period of time, but not less than thirty days, in which to cure or abate the violation(s). Subsequent violations of this section shall be subject to the penalties set forth below.

D. A person violating this section shall be liable for a civil penalty as follows:

1. A fine not exceeding two hundred fifty dollars for the first violation following a written warning within a one-year period.

2. A fine not exceeding five hundred dollars for the second and each subsequent violation within a one-year period.

3. The city may obtain civil injunctive relief, without requirement of bond, upon proof of three or more violations within a one-year period. In any civil injunctive proceeding the city may also recover its reasonable attorney’s fees and court costs. (Ord. 18-17 Att. A (part), 2018*)

*Code Reviser’s Note: Ord. 18-17 takes effect January 1, 2019.

8.04.070 Accumulations and disposal on property prohibited.
No owner or lessee of real property shall knowingly allow or cause solid waste or special
waste to be deposited, disposed, or otherwise allowed to accumulate upon property which is not zoned and licensed as a storage or disposal site.

A. Accumulations of solid waste or special waste as a result of ordinary commercial or residential activities is permitted in advance of regularly scheduled pickups, provided that all solid waste is housed in approved containers, and any special waste is properly contained so as to prevent odors, fumes, leaks, dust, insects, unsightly debris, animal infestations, or other hazardous conditions or nuisances. (Ord. 04-06 (part), 2004)

8.04.080 Burning prohibited.
No person shall knowingly cause or allow solid waste or special waste to be burned or incinerated within the city. (Ord. 04-06 (part), 2004)

8.04.090 Dumping prohibited.
No person shall knowingly dump, leave, deposit, or release solid waste or special waste upon any real property within the city, except in conformity with local zoning requirements and applicable state and federal regulations. (Ord. 04-06 (part), 2004). A fine of $500 will be assessed for illegal dumping.

8.04.100 Pre-enforcement notice.
Prior to commencing any civil enforcement or collection proceedings for a default or other violations of this chapter, the city shall first deliver written notice to the affected person advising of the nature of the violation and allowing a reasonable opportunity to cure or abate the violation, or request a hearing before the city council. A person wishing to contest a notice issued under this section may request a hearing by delivering written notice to the city prior to the expiration of the cure period. A timely notice shall stay enforcement proceedings until a hearing can be held. The city council’s decision shall be final for purposes of seeking judicial review or enforcement. The exhaustion of this administrative remedy shall be a jurisdictional prerequisite to a judicial action by any person challenging the validity of any enforcement or administrative action by the city. (Ord. 04-06 (part), 2004)

8.04.110 Abatement.
In the event that a party fails to cure or abate a violation, the city may, in its discretion, elect to remove or dispose of the offending solid waste or special waste. The city, or its designee, shall be authorized to enter upon private property for the purpose of removing or abating the violation. The owner of the real property shall be liable to the city for all actual costs incurred in cleaning up or abating the violation. (Ord. 04-06 (part), 2004)

8.04.120 Collection.
In addition to all other remedies, the city may commence a civil action to collect any sums owing pursuant to this chapter, or to obtain mandatory injunctive relief. In any injunctive proceeding, the city need only prove the violation of the ordinance to obtain injunctive relief.

A. In no instance shall an owner or real property be held liable for solid waste, water, or sewer service charges incurred by a prior owner of the property.

B. In its discretion, the city may elect to commence a civil action to collect any debt owing under this chapter. In any civil proceeding where liability is imposed, the city shall be
entitled to recover its reasonable attorney fees and court costs, in addition to the relief authorized by this chapter. (Ord. 04-06 (part), 2004)

8.04.130 Criminal enforcement.
In addition to all other remedies, any violation of this chapter shall be punishable as a criminal Class B misdemeanor, as provided under U.C.A. 76-3-204 and 76-3-301. In any criminal enforcement proceeding, the court shall have jurisdiction to assess costs, order restitution to victims, or require abatement of violations, as provided by law. (Ord. 04-06 (part), 2004)

8.04.140 Successive violations.
Each day of a continuing or ongoing violation of this chapter may be prosecuted as a separate offense for purposes of all remedies authorized by this chapter. (Ord. 04-06 (part), 2004)
PASSED AND APPROVED by a majority of the City of Moab City Council on this 13th day of August, 2019. This ordinance shall take effect immediately upon passage.

SIGNED:  

[Signature]

Emily S. Nichaus, Mayor

Date  

8/13/19

ATTEST:

[Signature]

Sommar Johnson, Recorder