

TOQUERVILLE CITY
ORDINANCE 2020.XX



AN ORDINANCE OF THE CITY COUNCIL OF TOQUERVILLE, UTAH, CREATING CHAPTER 6 (SOLID WASTE COLLECTION AND DISPOSAL) WITHIN TITLE 8 OF THE TOQUERVILLE CITY CODE ESTABLISHING RULES AND REGULATIONS PERTAINING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE PRODUCED OR GENERATED WITHIN THE BOUNDARIES OF THE CITY, THE CITY'S PARTICIPATION IN THE WASHINGTON COUNTY SPECIAL SERVICE DISTRICT NO. 1, AND ESTABLISHING FEES FOR COLLECTION AND DISPOSAL OF SUCH RESIDENTIAL WASTE.

RECITALS

WHEREAS, Washington County Special Service District No. 1 ("the District") was duly created by resolution of the Washington County Commission for the purpose of developing and implementing a system for the collection and disposal of solid waste generated within the boundaries of the District; and

WHEREAS, the District and Republic Services have entered into Residential Waste Collection Agreement ("the Agreement"), dated September 1, 2020, whereby solid waste collection and disposal services shall be provided to all residences within the District, including the incorporated area of Toquerville City ("the City"), for a period from February 1, 2021 to December 31, 2030,

WHEREAS, the City is located within the boundaries of the District; and

WHEREAS, the District and the City have entered into Municipal Billing and Collection Agreement dated August 15, 2020, whereby the residential waste collection and disposal services described in the Agreement is provided to residences located with the boundaries of the City; and

WHEREAS, the City, by and through its governing body, the Toquerville City Council ("the City Council") desires to establish rules and regulations, including monthly fees, pertaining to collection and disposal of residential solid waste generated within its municipal boundaries; and

WHEREAS, said City Council now deems it necessary and desirable for the preservation and protection of the health, safety and general welfare of the residents of the City to adopt the following ordinance creating Chapter 6 (Solid Waste Collection and Disposal) of Title 8 of the Toquerville City Code which establishes rules and regulations regarding the collection and disposal of solid waste within the City, establishes fees for said collection and disposal services and authorizes the City's participation in the District.

ORDINANCE

NOW THEREFORE BE IT HEREBY ORDAINED by the City Council of Toquerville, Utah, as follows:

1. CREATION OF CHAPTER 6 (COLLECTION AND DISPOSAL OF SOLID WASTE) OF TITLE 8 OF THE TOQUERVILLE CITY CODE. The following chapter (Chapter 6 – Collection and Disposal of Solid Waste, of Title is hereby adopted as follows:

**TITLE 8
PUBLIC UTILITIES**

**CHAPTER 6
COLLECTION AND DISPOSAL OF SOLID WASTE**

8-6-1: DEFINITIONS:

For purposes of this Ordinance, the following words or phrases shall have the following meanings.

A. *“Republic or Republic Services” shall mean Allied Waste Transportation, Inc, a Delaware corporation, d/b/a Republic Services of St. George, licensed to do business in the State of Utah.*

B. *“District” shall mean Washington County Special Service District No. 1.*

C. *“City” shall mean the City of Toquerville.*

D. *“Agreement” shall mean Residential Waste Collection Agreement, dated September 1, 2020, between Washington County Special Service District No. 1 and Allied Waste Transportation, Inc, a Delaware corporation, d/b/a Republic Services of St. George, licensed to do business in the State of Utah.*

E. *“Automated or Semi-Automated Container” means a waste receptacle approved by the District, with a capacity of 60 to 94 gallons, equipped with a tight-fitting, permanently attached lid and wheels for easy movement, and specifically designed for automated and semi-automated pick up.*

F. *“Bulky Waste” means residential waste materials with lengths, weights or volumes greater than those allowed for automated containers, including but not limited to stoves, refrigerators, dryers, dishwashers, televisions, hot water tanks, washing machines, household furniture, four (4) or fewer tires, air conditioners, Christmas trees, bicycles, large toys, tree limbs of 3-6 feet in length and up to 6 inches in diameter, and Bags used for seasonal disposal of leaves. Bulky Waste does not include automobiles, more than four (4) tires, motorcycles, boats, Construction/Demolition Waste, large dead animals, Hazardous Waste, Special Waste and trees (other than Christmas trees) or limbs exceeding six (6) feet in length and six (6) inches in diameter, and other similar items. All items must be free of extraneous materials and shall be capable of being lifted into Republic’s collection vehicle by two (2) men. A Resident may not place more than three Bulky Waste items out for collection per call.*

G. *“Commercial” shall mean or refer to property:*

1. used primarily in connection with the supply of goods or professional services on a regular basis or in the regular course of

business, and for which a business or other license is required by Utah state law or local ordinance, and

2. *a hotel, motel, recreational vehicle rental park used for overnight or short term rental of less than thirty (30) days, or an apartment complex of more than eight (8) units used for a rental term of more than thirty (30) days.*

H. *“Commercial Hauler” shall mean any person or entity who in the regular course of business or for a fee collects and disposes of commercial waste.*

I. *“Commercial Waste” shall mean non-hazardous waste materials produced by businesses or resulting from normal activities on or use of commercial property or premises.*

J. *“Curbside” shall mean at or near any curb, sidewalk or other location immediately adjacent to any street, highway or road which is safely accessible to Republic’s waste collection vehicles.*

K. *“Dumpster or Roll-off” shall mean any metal container with a volume of 1.5 cubic yards or more, designed for storage of waste and to be compatible with collection equipment.*

L. *“Hazardous Waste” means a solid waste or combination of solid wastes, other than Household Waste, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed, and as further defined in Rule 315-2-3 of the Utah Administrative Code.*

M. *“Household Waste” means any waste material, including garbage, trash, and sanitary wastes in septic tanks, derived from households, including single-family and multiple-family residences, apartments, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.*

N. *“Infectious Waste” means a solid waste that contains or may reasonably be expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease. Infectious Waste is included in Household Waste unless subject to regulation in accordance with Rule 315-316(1) of the Utah Administrative Code.*

O. *“Recyclables or Recyclable Materials” any material or substance included in waste materials that can be put to beneficial re-use or sold in recognized markets for purposes other than disposal, including, without limitation, uncontaminated,*

non-hazardous corrugated cardboard, white paper, newsprint and other paper; plastics and plastic film; ferrous and non-ferrous metals; and glass or such other items as may be specified from time to time.

P. "Residence or Residential" shall mean the use of property or premises containing a structure which is hooked to culinary water and power and is intended or used for human habitation, including but not limited to:

- 1. single homes,*
- 2. mobile homes,*
- 3. town homes,*
- 4. condominiums,*
- 5. short-term vacation rentals (VRBO's) of less than 30 days,*
- 6. apartments not contained in or as part of an apartment complex of more than eight (8) units.*
- 7. Except as may be specified hereinafter, each residential unit or structure on property or premises classified as residential shall be considered a separate residence for purpose of billing and collection.*

Q. "Residential Waste" shall mean household waste, bulky waste, and other non-hazardous waste produced by or resulting from the normal activities on or use of residential property or premises. Residential Waste includes but is not limited to waste wood, wood products, tree trimmings, grass cuttings, dead plants, seeds, leaves, chips, shavings, saw-dust, printed matter, paper, pasteboard, plastic, aluminum cans, flattened cardboard boxes, wooden boxes, rags, loose straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible and waste pulp and other products such as are used for packaging or wrapping crockery and glass, cold ashes, cinders, floor sweepings, glass, mineral or metallic substances and any and all other waste materials not included in the definition of bulky waste, construction/demolition waste, dead animals, garbage or hazardous waste. Residential Waste does not include Special Waste or stable matter as defined herein.

R. Special Waste – "Special waste" means discarded solid waste that may require special handling or other solid waste that may pose a threat to public safety, human health, or the environment. Special waste includes:

- 1. Ash,*
- 2. automobile bodies,*

3. *infectious waste subject to regulation under Rule 315-316(1) of the Utah Administrative Rules,*
4. *waste tires,*
5. *dead animals,*
6. *asbestos,*
7. *waste exempt from the hazardous waste regulations under Rule 315-261-4 of the Utah Administrative Rules,*
8. *very small quantity generator hazardous waste as defined by Rule 315-260-10 of the Utah Administrative Rules,*
9. *waste containing PCBs,*
10. *petroleum contaminated soils,*
11. *waste asphalt,*
12. *sludge, and*
13. *stable matter.*

8-6-2: USE OF WASHINGTON COUNTY LANDFILL:

All residential waste generated within the corporate limits of City shall be transported to and disposed of at the Washington County Landfill or such other waste disposal facility as may be approved by District.

8-6-3: REQUIRED USE OF AUTOMATED/SEMI-AUTOMATED CONTAINERS:

Except for residential developments approved by City where density and lack of access by waste collection vehicles requires the use of dumpsters or roll offs as a means of residential waste collection, each residence or residential unit within the incorporated areas of City shall be required to utilize for residential waste collection service an automated/semi-automated container or containers which have been approved and delivered to the property by City or its authorized agent.

8-6-4: RESIDENTIAL WASTE COLLECTION AND DISPOSAL SERVICES PROVIDED BY CITY:

A. *City shall provide the following services to all residences within its corporate limits in accordance with the Agreement:*

1. Basic Residential Waste Collection Service: once-a-week curbside collection to all residences of residential waste placed in automated/semi-automated containers or in dumpsters or roll offs, along with collection of bulky waste, and
2. Collection of Recyclable Materials: every-other-week curbside collection of recyclable materials placed in recycling containers by residences participating in curbside residential recycling.

8-6-5: MANDATORY USE OF SERVICE:

The use by all residences within the boundaries of City of the basic residential waste collection services described in Section 8-6-4.1 is hereby declared to be mandatory; however, participation in curbside residential recycling as described in Section 8-6-4.2 shall be determined in accordance with the opt out rules and guidelines specified in Section 8-6-6, below.

8-6-6: RECYCLING OPT OUT RULES AND GUIDELINES:

Participation in curbside recycling collection services shall be mandatory for any residential unit within the boundaries of City for which the election to opt out of such services is not made by the owner, or such other person designated in writing by the owner, on or before November 30, 2020, in accordance with the following opt out rules and guidelines:

- A. *The election to opt out shall be made by the owner of the residence, or by such other person designated in writing by the owner, or as otherwise approved by the City.*
- B. *For purposes of these rules and guidelines, all City residences/residents who are not participants in curbside recycling collection services as of the effective date of this Ordinance shall be deemed to have opted out of receiving curbside recycling collection services.*
- C. *Except as provided herein, all City residences/residents who do not opt out by November 30, 2020 shall be deemed to be included in the curbside recycling collection program for the term of the Agreement.*
- D. *City residents/residences who opt out or who are deemed to have opted out on or before November 30, 2020, as determined by City, may opt in at any time but thereafter shall be included in the recycling program for the remaining term of the Agreement.*
- E. *City residents/residences who opt out or who are deemed to have opted out on or before November 30, 2020, as determined by City, shall be entitled to continue such opt out status in the event they move to another or new residence within the boundaries of City.*

F. *New residents, i.e., people who move from outside of City to a residence within the boundaries of City, regardless of a prior election to opt out, shall be automatically included in the recycling program for the remainder of the term of the Agreement.*

G. *Notwithstanding the foregoing, upon written request from the owner or occupant of the residence, the City Council shall have authority to grant a variance to the above provisions based on a showing of undue hardship or other extraordinary circumstances.*

8-6-7: RESIDENTIAL WASTE COLLECTION PROCEDURES:

Except where the use of dumpsters or roll offs are authorized, residential waste shall be placed for collection in accordance with the following:

A. *All residential waste shall be placed for collection in automated/semi-automated containers.*

B. *All residential waste shall be placed for collection by 6:00 a.m. of the day scheduled for collection.*

C. *No hazardous waste, infectious waste or special waste shall be placed for collection in any automated/semi-automated container or any dumpster or roll-off.*

D. *Only recyclable materials, as determined from time to time by City, shall be placed for collection in recycling automated/semi-automated collection containers.*

E. *Automated/semi-automated containers shall be placed within three (3) feet of the curbside, blacktop or other roadway surface, with three (3) feet clearance on either side of the container from parked cars or other objects, and at other locations readily accessible to collection vehicles and personnel.*

F. *All empty waste containers shall be removed from the street as soon as reasonably practicable but not later than 24 hours after being emptied.*

G. *Bulky waste shall be placed at or near the curbside, blacktop or other roadway surface, or at other locations readily accessible to collection vehicles and personnel.*

8-6-8: ESTABLISHMENT OF RESIDENTIAL FEES:

There is hereby established a monthly residential waste collection and disposal fee for each residence or residential unit in City, which shall include the following amounts:

A. *For basic residential waste collection service:*

1. *the amount to be paid to Republic in the amount of \$6.90 per month per residence, which shall be subject to an annual increase of 2.5%; and*
2. *the amount to be paid to the District for administrative costs and expenses*
3. *the amount of \$4.45 per month per residence, which shall be subject to an annual increase of ten cents (\$.10); and*
4. *such amount as may be established from time to time by resolution of the City Council for administrative costs and expenses incurred by the City in billing and collection; and*

B. For residences receiving curbside recycling collection services, the following additional amounts:

1. *the amount to be paid to Republic in the amount of \$4.90 per month per residence, subject to an annual increase of 2.5%; and*
2. *the amount of \$.75 per month per residence for the cost of the recycling container.*

8-6-9: FEE FOR AVAILABILITY OF SERVICE:

The residential fee established hereby for basic collection service is for the availability of service provided by City through the District and its authorized agent, Republic, and said fee shall be due and owing when service is available, regardless of whether said service is actually utilized.

8-6-10: MONTHLY BILLING:

Fees for residential waste collection and disposal services provided by City shall be paid on a monthly basis, and shall be included in any billing for other municipal services supplied by City, including water, power, sewer, etc. Payments for residential waste collection and disposal services not received on or before the 10th day of the month following the month for which services were provided shall be deemed delinquent and shall thereafter bear interest at the rate of twelve percent (12%) per annum until paid in full, and shall be subject to all collection practices or procedures as may be established from time to time by ordinance.

8-6-11: COLLECTION OF COMMERCIAL WASTE:

Nothing in this ordinance shall preclude the owner or lessee of any commercial property or premises from transporting his or her own commercial waste to the landfill, or contracting for its removal with a commercial hauler properly licensed by the District and authorized to conduct business within City.

8-6-12: REGULATION COMMERCIAL OR PRIVATE HAULERS:

No private or commercial hauler shall be allowed to collect or dispose of commercial solid waste generated by businesses or through the use of commercial property within City without having first obtained from District a license to operate as a private or commercial hauler and is authorized to conduct business within the City via a business license or acknowledgment of a business license issued by Washington County or another City within the County offering reciprocity to businesses principally placed within the City.

8-6-13: COLLECTION VEHICLES:

All trucks or other vehicles used by any private or commercial hauler to collect or transport solid waste within City shall:

- A. be maintained in a good mechanical condition,*
- B. be equipped with fully enclosed sides and bottom and otherwise constructed as to prevent the contents of the vehicle from spilling or blowing while the vehicle is in motion,*
- C. clearly bear on the outside of the body of the vehicle the name and telephone number of the hauler, and*
- D. comply with all provisions of all applicable state or federal regulations or laws concerning the collection, transportation or disposal of solid waste.*

8-6-14: COVERED/CONTAINED TRANSPORTATION OF WASTE:

All solid waste transported by any private or commercial hauler shall be contained, covered, tied or enclosed in such a manner that leaking, spilling or blowing are prevented during transportation.

- 2. **REPEALER.** This Ordinance shall repeal and supersede all prior ordinances and resolutions governing the same.
- 3. **SAVINGS CLAUSE:** If any provision or clause in this Ordinance or the application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications hereof which can be implemented without the invalid provision, clause, or application hereof, and to this end the provisions and clauses of this Ordinance are declared to be severable.
- 4. **EFFECTIVE DATE.** This Ordinance shall take effect immediately upon approval by the City Council.

PASSED AND APPROVED THIS ____ DAY OF NOVEMBER, 2020.

John 'Chuck' Williams	Aye ___	Nay ___	Absent/Abstain ___
Keen Ellsworth	Aye ___	Nay ___	Absent/Abstain ___
Justin Sip	Aye ___	Nay ___	Absent/Abstain ___
Gary Chaves	Aye ___	Nay ___	Absent/Abstain ___
Ty Bringhurst	Aye ___	Nay ___	Absent/Abstain ___

TOQUERVILLE CITY
a Utah Municipal Corporation

Lynn Chamberlain, Mayor

Date

Attest:

Ruth Evans, City Recorder

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