

ORDINANCE GRANTING FRANCHISES FOR RESIDENTIAL AND SMALL BUSINESS SERVICE COLLECTION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE IN UNINCORPORATED AREAS OF FORSYTH COUNTY (PUBLIC HEALTH DEPARTMENT)

WHEREAS, pursuant to the authority provided by N.C. General Statutes, Section 153A-136, Chapter 19 of the Forsyth County Code, and other applicable laws, the Forsyth County Board of Commissioners hereby considers the following ordinance granting franchises for residential and small business service collection, transportation, and disposal of solid waste in the best interests of Forsyth County; and

WHEREAS, the Forsyth County Board of Commissioners is satisfied that the proposed franchise holders each hold a currently valid solid waste management permit issued by the Health Director to collect and transport solid waste and will comply with all health regulations, and will render prompt, efficient, and continuing service to the area for which each franchise is granted, and that each proposed franchise holder has sufficient equipment and personnel to render such service to all within their respective franchised area;

NOW, THEREFORE, BE IT ORDAINED that the Forsyth County Board of Commissioners hereby grants franchises for residential and small business service collection, transportation, and disposal of solid waste to the following entities, pursuant to the following terms and conditions:

Section 1. Franchise Holders

Franchises for the residential and small business service collection, transportation, and disposal of solid waste are hereby granted, as listed herein below, to the following persons, firms and corporations for the type of service indicated. For purposes of this ordinance, "Private Corporation" means a corporation in which the shares of stock are closely held or not publicly traded; "public corporation" means a corporation in which the shares of stock are traded on a recognized exchange; and "proprietorship" means a business which is not incorporated and is not a partnership. This Ordinance shall extend, replace, and supercede the Ordinance which was adopted and became effective October 11, 2004, which granted franchises for the collection, transportation, and disposal of solid waste.

Franchise area

Franchise Collector

1

**ABC Garbage Service
P.O. Box 546
Rural Hall, NC 27045
Phone: (336) 985-3572
Darrell and Mike Marshall and Tracy Childress
Proprietorship**

2, 3, 12A, 12B

Rural Garbage Service, Inc.
P.O. Box 543
Kernersville, NC 27284
Phone: (336) 993-4307
Mr. Eddie Parrish
Private Corporation

4, 8, 9, 10, 13, 15

Waste Management of Carolinas, Inc.
P.O. Box 16148
Winston-Salem, NC 27115
Phone: (336) 723-5744
Public Corporation

***** (There is no area #5 or #6)

7, 14

Ernest Rural Garbage Service, Inc.
P.O. Box 687
Lewisville, NC 27023
Phone: (336) 945-9131
Mr. Royce Ernest
Private Corporation

***** (Area #11 was annexed by the City of Winston-Salem in its entirety in September 2006)

Section 2. Franchise Area

With the exception of land areas located within incorporated municipalities, the residential and small business franchise holders as set forth in Section 1 above are hereby granted franchises for the areas, set forth in Section 1 of this ordinance, as described by the County and set forth in the documents entitled "Map of Franchise Area", and "Description of Residential and Small Business Service Franchise Areas", which documents are incorporated herein by reference, and are on file and available for public inspection in the office of the Clerk to the Board of Commissioners. The documents designate the franchise areas by franchise numbers.

Section 3. Nature of Franchises

- (a) The franchises granted herein for residential and small business service collection, transportation, and disposal shall be and are hereby adopted as exclusive franchises within the respective areas designated.

Section 4. Period of Franchise

The franchises for residential and small business service collection, transportation, and disposal of solid waste are hereby granted for a period of three (3) years beginning October 12, 2007, and ending October 12, 2010.

Section 5.**Establishment of Maximum Fees for Certain Residential
And Small Business Collection, Transportation and Disposal**

- (a) There is hereby established and imposed a maximum collection, transportation and disposal fee for residential and small business service, of (i) fourteen dollars and forty cents (\$14.40) per household/location per month for curbside pickup and (ii) seventeen dollars and forty cents (\$17.40) per household/location per month for backyard pickup. This fee shall be charged for once per week pickup of no more than two solid waste containers of a capacity of thirty-two (32) gallons or less or the roll out container provided by the franchise holder. Small business locations with additional containers shall be charged additional fees within the maximum fee authorized herein based upon the number of additional containers served.
- (b) Residential and small business franchise holders may charge an additional three dollars (\$3.00) per month for rent of roll out containers that are to be provided by the franchise holder when requested by the user/resident.
- (c) Franchise holders are authorized by this ordinance to bill for no more than three (3) months in advance of services rendered.

Section 6.**Fees for Additional or Special Services**

- (a) Holders of franchises for residential and small business service are hereby granted a non-exclusive franchise for additional or special services which may include the collection, transportation and disposal of yard waste, demolition materials, white goods, tires and recyclable materials, but may not include the collection, transportation or disposal of containerized commercial and industrial material. The franchise holders must comply with all applicable laws, regulations and other permits, which may be required in providing these services. Fees charged for such additional or special services may be agreed upon by the parties, subject to review and approval by the Board of Commissioners as to reasonableness if it is deemed advisable.
- (b) Fees charged for the collection, transportation and disposal of containerized commercial and industrial material may be negotiated to the satisfaction of the parties concerned, subject to review and approval by the Board of Commissioners as to reasonableness if it is deemed advisable.

Section 7.**Authority to Increase Fees**

Fee adjustments shall be effective when approved by the Board of Commissioners.

Section 8. Required Service

Within each franchise area, the assigned franchise holder must provide service to everyone who requests it for residential and small business solid waste collection, transportation and disposal and related additional or special services as authorized herein. The Board of Commissioners may from time to time require residential and small business franchise holders to provide special programs of solid waste collection, transportation and disposal sponsored and paid for by the County.

Section 9. Additional Conditions and Requirements

- (a) Residential and small business solid waste containers shall be watertight metal or plastic containers with covers with a capacity of thirty-two (32) gallons or less and each weighing no more than fifty (50) pounds when filled or the roll-out container to be provided by the franchise holder. Backyard service shall be provided by the collector if the containers are not more than one hundred fifty (150) feet from a passable public road, and access is free of interference from dangerous animals or other obstructions.
- (b) After first obtaining approval from the County Manager's Office, during emergencies, to ensure uninterrupted service within each residential and small business franchise area, adjoining franchise holders shall provide collection, transportation and disposal services and assistance for a period not to exceed ninety (90) days to franchise areas without service. It shall be the responsibility of the franchise holder of the area without service to obtain the necessary approval from the County Manager's Office and to arrange for the service and assistance.
- (c) The Board of Commissioners or the County Manager may require franchise holders to submit such information and reports as the Board or the Manager deem necessary or advisable in the administration of this ordinance.
- (d) "Once per week" means the same day each week service except for extreme weather conditions (snow or ice), or equipment breakdowns. Service will be resumed as quickly as possible following any unavoidable delay.

Section 10. Record of Franchise

Approved franchise applications and the documents described in this ordinance and in Section 19-51 of the Forsyth County Code shall be maintained and kept on file in the offices of the Clerk to the Board of Commissioners.

Section 11. Termination of Franchise

The franchise holder must provide the County Manager at least ninety (90) days' prior written notice of its intent to terminate its franchise, or discontinue any services in the franchise area. The franchise holder may not sell or otherwise transfer the franchise to any other provider in exchange for any consideration. If the franchise holder fails to provide services as required in this ordinance, the County Manager shall have the right to terminate the franchise. The franchise is also subject to termination by the Board of County Commissioners as provided in Section 19-50 of the Forsyth County Code.

Section 12. Applicable Laws and Regulations

The franchises granted by this ordinance and their continuation are conditioned upon the franchise holder's compliance with all applicable federal, state and local laws and regulations, particularly those relating to residential and small business solid waste collection, transportation and disposal, including but not limited to Chapter 19 of the Forsyth County Code. The franchises and their continuation are also conditioned upon Forsyth County's continued jurisdiction, legal authority, and decision to administer and control the area of residential and small business solid waste collection, transportation and disposal.

Section 13. Franchise Fee

There is hereby imposed upon each franchise holder a franchise fee of ten dollars (\$10.00) payable to Forsyth County, in consideration for each exclusive residential and small business franchise granted.

Section 14. Effective Date

This ordinance shall become effective on October 12, 2007.

Adopted on first reading this 17th day of December 2007.

Adopted on second reading this the 14th day of January 2008.

ADOPTED

JAN 14 2008

**Forsyth County Board
of Commissioners**