ORDINANCE NO. 2021-11-02

AN ORDINANCE OF THE TOWN OF POETRY, TEXAS, AMENDING SECTION 3, "ADOPTION OF SOLID WASTE REGULATIONS", AND SECTION 5, "PENALTY FOR NON-COMPLIANCE", OF ORDINANCE NO. 2021-10-01 OF THE TOWN OF POETRY TO PROVIDE FOR SOLID WASTE FRANCHISE ADMINISTRATION PROCEDURES AND UPDATED PENALTY PROVISIONS; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING AMENDMENTS; PROVIDING A PENALTY FOR VIOLATIONS OF THIS ORDINANCE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS ($500.00) FOR EACH OFFENSE AND EACH AND EVERY DAY A VIOLATION OCCURS OR CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE; PROVIDING FOR ENROLLMENT AND ENGROSSMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Poetry, Texas (the "Town") is a general law municipal corporation duly organized and validly existing under the laws of the State of Texas and located within Kaufman and Hunt Counties, Texas; and

WHEREAS, on October 19, 2021, the Town adopted Ordinance No. 2021-10-01, adopting solid waste franchise regulations and a related fee; and

WHEREAS, now, the Town Council desires to amend Ordinance No. to provide for procedures for its administration of its solid waste regulations and updated penalty provisions for violations of the regulations; and

WHEREAS, all legal prerequisites for the passage of this Ordinance have been met, including but not limited to the requirements of the Texas Open Meetings Act; and

WHEREAS, the Town Council of the Town of Poetry finds and determines that a public need exists to regulate the collection of solid waste in the Town's limits 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. INCORPORATION OF PREMISES. The Town Council hereby finds that the statements set forth above in the premises of this Ordinance are true and correct, and the Town Council hereby incorporates such premises as part of this Ordinance.

SECTION 2. AMENDMENTS.

2.1 That Section 3, "Adoption of Solid Waste Regulations", of Ordinance No. 2021-10-01 of the Town of Poetry, is hereby amended as follows with all other provisions of Section 3 not herein amended to remain in full force and effect:

SECTION 3. ADOPTION OF SOLID WASTE REGULATIONS.

. . .

SECTION 2. PERMIT AND FRANCHISE AGREEMENT REQUIRED

A. No collector 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. 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 been issued a permit to do so from the Town. The Mayor or his/her designee may provide notice of noncompliance with these regulations to such a collector and offer 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.

. . .

2.2 That Section 5, "Penalty for Non-compliance", of Ordinance No. 2021-10-01 of the Town of Poetry, is hereby amended as follows:

SECTION 5. PENALTY FOR NON-COMPLIANCE.

That any person, firm or corporation violating any of the provisions or terms of this Ordinance, as amended, shall be deemed guilty of a misdemeanor and subject to a penalty not to exceed the sum of Five Hundred Dollars ($500.00) for each offense, and each and every day a violation occurs or continues shall constitute a separate offense. The Town may also pursue a civil enforcement action for each violation of this Ordinance, pursuant to Chapter 54 of the Texas Local Government Code, as amended.

The remedies authorized by this section are inclusive and not exclusive and shall in no way prevent the Town from exercising all other remedies at law to which it may be entitled.

. . .

SECTION 3. SEVERABILITY.

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 the ordinances of the Town as a whole.

SECTION 4. ENROLLMENT/ENGROSSMENT.

The Secretary is hereby directed to engross and enroll this Ordinance by copying the exact Caption and Effective Date clause in the minutes of the Town Council and by filing this Ordinance in the Ordinance Records of the Town.

SECTION 5. EFFECTIVE DATE.

That this Ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases may provide.

DULY ADOPTED by the Town Council of the Town of Poetry, Texas on the 16 day of November, 2021.

APPROVED:

Tara Senkevech
MAYOR, TARA SENKEVECH

ATTEST:

Karoline Chapman
KAROLINE CHAPMAN, TOWN SECRETARY

APPROVED AS TO FORM:

Patricia Adams
TOWN ATTORNEY, PATRICIA ADAMS