

Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

**Board of Directors**

Ward 1 – Keith D. Lau

Ward 2 – Andre' Good

Ward 3 – Mike Lorenz

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

# **AGENDA**

## **Fort Smith Board of Directors Study Session**

**June 11, 2013 ~ 12:00 Noon**

**Fort Smith Public Library Community Room  
3201 Rogers Avenue**

1. Review code enforcement procedures of Neighborhood Services
2. Review regulations pertaining to residential sanitation services at multiplexes  
~ *Director Merry requested at the March 12, 2013 study session / Continued discussion from the May 14, 2013 study session ~*
3. Review preliminary agenda for the June 18, 2013 regular meeting

# Memorandum

To: Ray Gosack, City Administrator  
From: Wally Bailey, Director of Development Services  
Date: 6/6/2013  
Re: Neighborhood Services Procedures

The Neighborhood Services (NS) Division of Development Services administers numerous nuisance ordinances and standards for properties located in the City of Fort Smith. Recently there have been questions about the time it takes for some violations to be remediated. The purpose of this memorandum and the attached material is to provide some historical background on this division and the work they perform for the citizens of Fort Smith.

A significant turning point for property maintenance came in 2002 with the adoption of the Comprehensive Plan. Goal 4 of the current Comprehensive Plan "Preserve, protect and improve Fort Smith's neighborhoods" provided a policy direction and details for the creation of several ordinances and development of the Neighborhood Services Division. The benefits of these activities is that they improve the appearance, health, safety and property values.

The NS inspectors must follow the time limits for notices and warnings as specified in either the City Ordinances or Arkansas law. The time limits differ between issues which could be due to the reasonable time it may take to address a particular problem. The list of the different issues and the compliance times are shown on the attached exhibit A.

Irrespective of the minimum time limits stated in the ordinances and state laws, a variety of issues may lengthen the time limits. Some of the issues affecting the timing for inspections and ultimately seeing a property brought into compliance follow.

**Staffing:**

In 2003, the NS division increased from 2 to 4 inspectors to better address the number of complaints regarding overgrown properties, trash, abandoned vehicles and other items specified in the existing Ordinances. Since then many additional regulations have been added such as the adoption of the Property Maintenance Code which governs structures and overcrowding, the four residential parking ordinances and many other miscellaneous ordinances (see exhibit A). One of the 4 inspectors is dedicated to the Property Maintenance Code. With the additional ordinances we have not added any

**Constitutional requirements:**

Additionally, the inspection staff must follow many of the basic Constitutional principles required by our law enforcement personnel. A couple of examples include:

The Fourth Amendment to the United States Constitution is the part of the Bill of Rights which guards against unreasonable searches and seizures, along with requiring any warrant to be judicially sanctioned and supported by probable cause.

Some situations require our inspection staff to seek and obtain a search warrant before being able to proceed with any inspection or ultimate enforcement activity on a property.

The Fifth and Fourteenth Amendments to the United States Constitution each contain a Due Process Clause. Due process deals with the administration of justice and thus the Due Process Clause acts as a safeguard from arbitrary denial of life, liberty, or property by the Government outside the sanction of law. Each individual has the right to be properly notified, the right to appeal and the right to a hearing.

Following the due process permitted by the constitution allowing each person the right to be properly notified and the right to appeal is an important issue. At any time an appeal is filed then the enforcement activity is placed in abeyance until the appeals are completed.

**Seeking Compliance rather than Enforcement:**

The NS staff is often faced with trying to balance the desire to be customer friendly and work with property owners while at the same time trying to be sensitive to the needs of a neighborhood to get a property into compliance. We use courtesy notices to attempt compliance and in many cases find this to be successful, quicker and less costly to the City. However, this is not successful in all cases.

**Time to serve a legal notice:**

A legal notice is not calculated from the date we send the notice but from the date it is documented as received by the property owner. Depending upon the ability of the post office to deliver the notice, we could experience a significant time before starting the mandatory time period for compliance.

**Court cases:**

Many cases are appealed to court or taken to court by our staff. These cases take more time providing for the due process of the legal system and the court working with the property owners to correct the problems.

Abatement cannot occur until the alleged violation can be verified, proper notices given, and any appeals have been completed. Those violations that we employ a contractor to abate include mowing grass, cleaning up trash and debris, towing an inoperable vehicle, board up houses, removal of dead trees, and graffiti removal. The actual cost of employing the services of a contractor to conduct mowing or cleaning property is a cost that is born by the taxpayers. We attempt collection for the costs and file liens for unpaid costs. We recover only a small portion of the total costs spent on property clean up.

Most property clean up items such as mowing grass and trash and debris can be mitigated in 15 to 30 days with some exceptions due to circumstances previously mentioned. Towing an inoperable vehicle is typically 31 to 45 days. Residential parking ordinances typically are mitigated in 7 to 45 days. Property maintenance code for repairs to existing structures can be weeks or years. All these times are flexible due to circumstances of appeals, validating ownership records, etc.

In summary, you can see that regardless of our minimum times established in the city ordinances or state laws, any number of issues can extend the time for compliance. The time it takes to research ownership records, time to serve the legal notice, an administrative appeal, a legal appeal, an appeal that extends the compliance period, court cases, etc. are just some examples of issues that can extend the basic or established time frames.

Suggested recommendations to streamline the current process might include the following:

- \*Administrative time extensions for compliance should be limited to some specific period such as 6-months.
- \*Current Arkansas law allows the City to mow or clean a property continually each 30-days following the initial notice. During the peak of the growing season a property can become very unsightly in a 30-day period. A change in the State law to reduce this time would allow for more prompt mowing during the peak season.
- \*Consider at least one additional inspector.

Please contact me if you have any questions.



# MEMORANDUM

*Neighborhood Services Division*

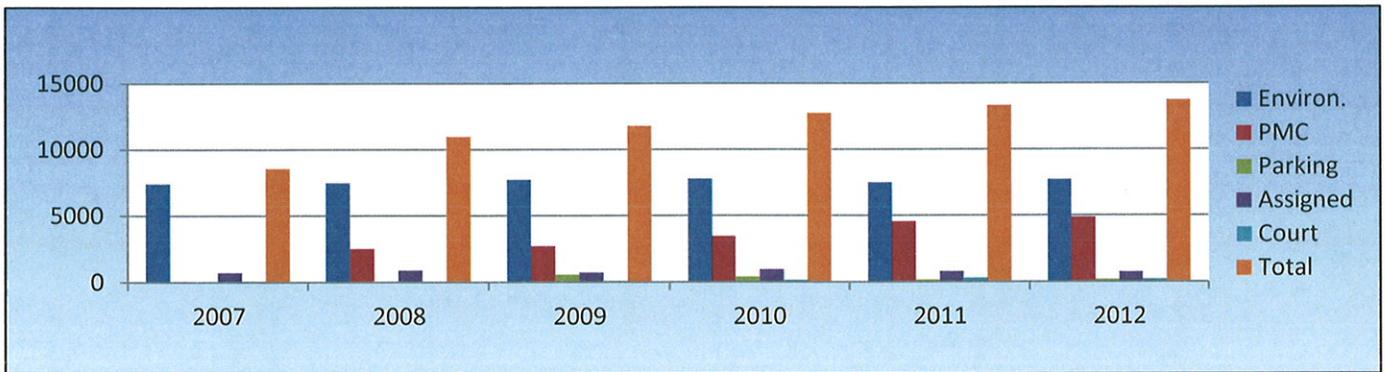
To: Wally Bailey  
 From: Rick Ruth, Property Maintenance Supervisor  
 Date: June 3, 2013  
 Subject: Neighborhood Services Division

### Inspection Comparisons by Year (Including Assigned to Contractor)

YEAR	2007	2008	2009	2010	2011	2012
<b>Environmental</b>	7412	7481	7733	7792	7514	7729
<b>*P. M. Codes</b>	356	2523	2695	3452	4543	4876
<b>*Parking Ord.</b>	0	0	556	395	168	194
<b>Assigned</b>	704	883	699	943	784	728
<b>Court Appearances</b>	87	74	93	166	304	210
<b>Totals:</b>	<b>8559</b>	<b>10961</b>	<b>11776</b>	<b>12748</b>	<b>13313</b>	<b>13737</b>

**Note:** In the beginning the Property Maintenance Codes were limited to a pilot area. In mid-2007 the codes were expanded citywide which necessitated additional training and staffing for Neighborhood Services. A supervisor position was created, an inspector was dedicated to PMC inspections and training for the program was completed. A reflection of the implementation and training can be seen in the dramatic change in the numbers for 2008.

**Note:** The parking ordinances became effective on October 1, 2008. Copies of the parking ordinances were given to violators as a form or education rather than formal enforcement actions from October through December 2008.





## Neighborhood Services Division

P.O. Box 1908, 623 Garrison Ave., Fort Smith, AR 72902

The City of Fort Smith municipal codes and ordinances addressed by the Neighborhood Services Division shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

The municipal authority to enforce these ordinances is given under Arkansas State Statutes 14-54-901 through 14-54-904. It is within these statutes that due process of law dictates following:

- Number of days (7) allowed to bring a property into compliance
- Posting notice on the property
- Sending of certified or registered letters using the owner's address as listed on the County Collectors records
- Notifying lien holder(s), if any exists, via certified or registered mail

Addressing inoperable vehicles falls under state statutes 8-6-402 through 8-6-414 and includes the following :

- Number of days (30) to bring the vehicle into compliance
- Requirements of legal notice
- Abatement procedures

The time allowed for Graffiti removal has been set by the ordinance adopted by the City of Fort Smith Board of Directors:

- Ten (10) days
- Forms are also available to allow the city to remove the graffiti and forego legal notice and assigned abatement action which would result in property clean up liens on the property

## ***INDEX OF STANDARD OPERATING PROCEDURES***

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<b>*Includes but is not necessarily limited to:</b> Grass & Weeds, Trash & Debris, Dead Trees and/or Dead Limbs, Indoor Appliances, Indoor Furniture, Open Storage, Blind Corners.	
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<b><u>Procedures for Enforcement of the Following Ordinances:</u></b>	<b>Page 4</b>
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• 14-53	<b>Vehicle Sales on Residential Properties</b>
• 14-54	<b>Parking of Commercial Vehicles on Residential Streets and Properties</b>
• 14-55	<b>Parking of Recreational and Utility Vehicles on Residential Properties*</b>
• 14-56	<b>Regulations for Fencing on Residential Properties*</b>
• 25-268 (a)	<b>Blowing yard clippings and waste onto city streets</b>
• 25-268(b)	<b>Sanitation Containers left curbside</b>
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## **Nuisance Ordinances Procedure – Environmental\***

**\*Environmental includes but is not necessarily limited to:** Grass & Weeds in excess of 6 inches; Trash & Debris; Dead Trees and/or Dead Limbs; Indoor Appliances placed outdoors; Indoor Furniture placed outdoors; Open Storage of boxed or loose items – this includes building materials and supplies unless in the process of being used on a project with a proper building permit if required; Overgrowth creating Blind Corners and/or sight obstructions.

### **Step 1**

When a complaint is received the inspector will perform an inspection within three (3) working days to determine if a violation exists.

### **Step 2**

If a violation exist the inspector will determine whether a Courtesy or 7-Day Warning Notice is warranted and attempt to make contact with the occupant of the property to advise them of the violation(s) and what would be required to bring the property into compliance. A copy of the notice of violation will be given to the occupant, or if contact cannot be made, a copy of the notice will be posted on the property.

**\*Note:** Lots, vacant properties, or known ‘problem’ properties will be posted with a 7-Day Warning Notice on the initial inspection. An exception would be the possibility of a courtesy where there is a history of compliance. The courtesy may be written, given via phone call or verbal in person.

### **Step 3**

The office staff will then mail a follow up notice to the owner (as identified by the County Assessor’s Office) and to the tenant if not owner occupied via 1<sup>st</sup> Class Mail. An inspection for compliance will then be scheduled for 7 days from date of notice.

### **Step 4**

If the property remains in violation 7 days after a Warning Notice was issued, notice will be sent to the property owner and to the mortgage holder (if one exists) via Certified Mail as mandated by the State of Arkansas under due process of law. A final Inspection for Compliance will then be scheduled 7 days from the date the card(s) were signed and/or letter(s) are received.

**Note:** There are instances where the Post Office returns a letter with new address information. Certified Mail will then be sent to the alternate address.

### **Step 5**

If the property is not in compliance the inspector will record the violation(s) via digital media and forward the information to office staff for assignment. Office staff will complete the necessary paperwork and assign the property to a contractor for abatement. Once a property has been abated by the city, it will be re-inspected every thirty (30) days through the end of the calendar year and any violation(s) will be abated without further notice.

## Nuisance Ordinances Procedure – Graffiti

### Step 1

When a complaint is received the inspector will perform an inspection within three (3) working days to determine if a violation exists.

### Step 2

If a violation exist the inspector will determine whether a Courtesy or 10-Day Graffiti Warning Notice is warranted and attempt to make contact with the occupant of the property to advise them of the violation(s) and what would be required to bring the property into compliance. A copy of the notice of violation will be given to the occupant, or if contact cannot be made, a copy of the notice will be posted on the property.

**\*Note:** Lots, vacant properties, or known ‘problem’ properties will be posted with a 10-Day Graffiti Warning Notice on the initial inspection. An exception would be the possibility of a courtesy where there is a history of compliance. The courtesy may be written, given via phone call or verbal in person.

### Step 3

The office staff will then mail a follow up notice to the owner (as identified by the County Assessor’s Office) and to the tenant if not owner occupied via 1<sup>st</sup> Class Mail. An inspection for compliance will then be scheduled for up to 7 days from date of notice.

### Step 4

If the property remains in violation 10 days after a Warning Notice was issued, notice will be sent to the property owner and to the mortgage holder (if one exists) via Certified Mail as mandated by the State of Arkansas under due process of law. A final Inspection for Compliance will then be scheduled 10 days from the date the card(s) were signed and/or letter(s) are received.

**Note:** There are instances where the Post Office returns a letter with new address information. Certified Mail will then be sent to the alternate address.

### Step 5

If the property is not in compliance the inspector will record the violation(s) via digital media and forward the information to office staff for assignment. Office staff will complete the necessary paperwork and assign the property to a contractor for abatement.

### Note

An exception to posting violations or assigning to a contractor could occur if the graffiti is minimal and the property owner would sign permission for the city to cover the graffiti. Because graffiti is random and not caused by the owner of the property, there are no automatic re-inspections. Each incident is handled as a new violation.

## **Nuisance Ordinances Procedure – Inoperable Vehicles**

**\*Inoperable/Abandoned vehicles:** A vehicle which cannot lawfully be driven upon the public streets for reasons including but not limited to being unregistered, wrecked, dismantled, partially dismantled, abandoned, in a state of disrepair, or incapable of being moved under its own power is inoperable.

### **Step 1**

When a complaint is received in reference to inoperable vehicle(s) the inspector will perform an inspection within three (3) working days to determine if a violation exists.

### **Step 2**

The inspector will determine whether a Courtesy or 30-Day Inoperable Vehicle Notice is warranted and attempt to make contact with the occupant of the property to advise them of the violation(s) and what would be required to bring the property into compliance. If a License Plate Number or VIN can be seen from a public area the inspector will enter the information on the notice. A copy of the notice of violation will be given to the occupant, or if contact cannot be made, a copy of the notice will be posted on the property and will be documented via digital media.

**\*Note:** If the inoperable vehicle(s) is located on a lot, at a vacant property, or a known ‘problem’ property, it will be posted with a 30-Day Inoperable Vehicle Notice on the initial inspection.

### **Step 3**

If a License Plate Number or VIN is included the office staff will email the information to the Department of Motor Vehicles in Little Rock, AR to obtain information as to the Current Owner of Record of the vehicle(s).

### **Step 4**

If a Courtesy was issued copies will be mailed to the owner of the property, the tenant if not owner occupied and to the owner of the vehicle(s) if ascertained by the Department of Motor Vehicles via 1<sup>st</sup> Class Mail. An inspection for compliance will then be scheduled for 7 days from date of notice. If the property is still in violation the inspector will document the violation(s) via digital media and issue a 30-Day Inoperable Vehicle Notice.

### **Step 5**

Copies of the 30-Day Inoperable Vehicle Notice will be sent to the property owner and to the owner of the vehicle if ascertained by the Department of Motor Vehicles via Certified Mail as mandated under due process of law.

**Note:** Certified Mail to the owner is not necessary if the owner signed the 30-Day Inoperable Vehicle Notice.

### **Step 6**

Once the signed Certified Mail Card(s) are received and/or the letter(s) are returned by the Post Office undeliverable, legal notification will have been met. A final Inspection for Compliance will then be scheduled 30 days from the date the card(s) were signed and/or letter(s) are received.

**Note:** There are instances where the Post Office returns a letter with new address information. Certified Mail will then be sent to the alternate address.

### **Step 7**

If the property is not in compliance the inspector will record the violation(s) via digital media and contact the office staff to request a towing service for a private property tow off. The inspector will then complete the required paperwork for the towing service and stay on site until the towing is complete.

## **Procedures for Enforcement of the Following Ordinances:**

- **14-52**            **Parking & Screening of Vehicles on Residential Properties\***
- **14-53**            **Vehicle Sales on Residential Properties**
- **14-54**            **Parking of Commercial Vehicles on Residential Streets and Properties**
- **14-55**            **Parking of Recreational and Utility Vehicles on Residential Properties\***
- **14-56**            **Regulations for Fencing on Residential Properties\***
- **25-268 (a)**      **Blowing yard clippings and waste onto city streets**
- **25-268(b)**      **Sanitation Containers left curbside**
- **27-404(C)(d)**   **Clothesline Poles in Setbacks**

**Note:** Ordinances marked with an asterisk (\*) may be appealed.

### **Step 1**

When a complaint is received in reference to any of the ordinances referenced above, the inspector will perform an inspection within three (3) working days to determine if a violation exists.

### **Step 2**

The inspector is to attempt to make contact with the occupant of the property and advise them of the violation(s) and what would be required to bring the property into compliance. A Courtesy Notice and a copy of the Municipal Ordinance should be given to the occupant. If no one is home, the inspector will leave the copies posted on the property. Upon returning to the office, the inspector will give the original copy of the Courtesy Notice to office staff for filing, and set the next inspection date for up to seven (7) days later.

### **Step 3**

If the property remains in violation a Warning Ticket will be given to the occupant and it will be explained that they have seven (7) days to bring the property into compliance in an effort to avoid a Citation and court appearance. If no one is home a copy of the Warning Ticket will be posted on the property along with a 7-Day Warning Notice with a notation explaining that they have seven (7) days to bring the property into compliance in an effort to avoid a Citation and court appearance. If the occupant is a tenant, contact the owner and explain the situation and ask for assistance in having the tenant bring the property into compliance. If personal contact with the owner cannot be made, a copy of the 7-Day Warning Notice, a copy of the Warning Ticket and a note asking for assistance in having the tenant bring the property into compliance will be sent to the owner via 1<sup>st</sup> Class mail.

### **Step 4**

If, upon re-inspection the following week the property is in compliance, no further action is needed. If the property is still in violation a Citation will be issued to the occupant and a court date will be set. Please note that a citation can only be issued in person, therefore every effort to make personal contact with the occupant is required. If no contact can be made and the property remains in violation, then an Affidavit for Criminal Summons is to be filed with the City Prosecuting Attorney's Office.

### **Step 5**

The inspector will represent the City of Fort Smith in District Court and present the case according to Fort Smith Municipal Codes and Ordinances and will follow any decisions handed down by the presiding judge.

### **Note**

If an appeal/variance hearing is requested, enforcement actions will be stayed until the appeal is heard and a decision is made.

## **Procedures For – Property Maintenance Code Violations**

### **Step 1**

When a complaint is received in reference to a the condition of an existing structure that would be in violation of the Property Maintenance Codes the inspector will perform an inspection within three (3) working days to determine if a violation exists.

### **Step 2**

The inspector will document the violation(s) via digital media. He will then prepare a letter of notice and send it via Certified Mail to the owner of the property as identified by the County Assessor's Office. If the letter is signed for proceed with inspections for progress, if the letter is returned Unclaimed or Undeliverable post a copy of the letter on the property.

### **Step 3**

If no progress is noted within thirty (30) days request a legal search to identify any mortgage holder. A second letter of notice will then be mailed to both the owner (via 1<sup>st</sup> Class) and to the mortgage holder (via certified mail). Make every attempt to locate a responsible party and work with them to bring the property into compliance with the Property Maintenance Code.

### **Step 4**

If no progress is noted within thirty (30) days, a letter advising that our next enforcement action will be taken through the City Prosecuting Attorney's Office will be mailed to the owner via 1<sup>st</sup> Class Mail. If no progress is made within thirty (30) days, the inspector will then proceed forward with an Affidavit for Criminal Summons.

**Note:** Once an Affidavit for Criminal Summon is signed by a judge, the summons is issued and given to the Police Department for Process Service. A court date will not be set until such time as the summons is officially served (i.e. whether it be days, months or even years).

### **Step 5**

Once a date is set the inspector will represent the City of Fort Smith in District Court and present the case according to Fort Smith Municipal Codes and Ordinances and will follow any decisions handed down by the presiding judge.

### **Note**

Re-Inspections will be performed every 30 days when the repairs are in progress and the owner(s) and/or occupants are cooperating and working towards compliance. The financial and physical abilities of the owner(s) will also be taken into account when determining if an acceptable amount of progress has been made in any 30 day period. Information will also be provided to the owner(s) who may qualify for assistance programs and additional time may be allowed for the owner(s) to apply for assistance and for the decision making process.

## **Procedures for – Overcrowding Complaints**

### **Step 1**

Ask the owner or occupant how many people, including children occupy the dwelling. Ask if they know the square footage of the dwelling and the size of the bedrooms. If it appears they might be exceeding the limitations of the residence, inform them of the guidelines for occupancy limitations. Ask if they would consent to an interior inspection to verify the occupancy and to take square footage measurements to determine the number of people that can lawfully occupy that residence. Be sure to get a permission to inspect form signed before entering the premises.

### **Step 2**

If permission to inspect was not granted in Step 1 and the possibility of a violation remains, begin conducting an external inspection from the public right of way and documenting photographically any evidence that would give an indication of overcrowding. Look for things such as excessive trash piling up and the numbers of vehicles early in the morning or late in the evening. Check the water consumption rates and compare to previous months and see if there is a dramatic increase. Collect evidence at different intervals over a reasonable period of time not to exceed a fourteen (14) day period.

### **Note**

While conducting inspections if there appears to be heavy traffic frequenting the property and/or vehicles stopping for a few moments and leaving, pass this information along to the Fort Smith Police Dept.

### **Step 3**

If at the conclusion of the fourteen (14) day period it is believed that a violation exist, send a certified letter, return receipt requested, to the owner of record and/or occupant, stating that the City has found sufficient evidence to believe that they are in violation of the Fort Smith Property Maintenance Code and that in order to avoid any further enforcement action we must be able to verify that they are not exceeding the occupancy limitations.

### **Step 4**

Once a response is received and permission is obtained, proceed forward with an inspection.

### **Step 5**

If no violation exist inform the owner(s) and/or occupant(s) the number of residents allowed per the square footage of the property.

### **Step 6**

If there is no response to the certified letter, fill out an Administrative Search Warrant with the assistance of the Prosecuting Attorney making sure to attach supporting evidence and deliver it to the District Court Judge. Ensure that the warrant is served within 10 days of it being issued. Have a Fort Smith Police Officer standing by with you while you and another inspector conduct the inspection of the residence.

If the owner and/or occupant are in violation, inform them that you will be back in 30 days to verify compliance. Provide the owner and/or occupant with written information about the appeal process.



## MEMORANDUM

June 7, 2013

To: Ray Gosack, City Administrator

From: T. Baridi Nkokheli, Director

Subject: Residential Sanitation Services at Multiplexes

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During the May 14, 2013 Board of Directors' Study Session, we discussed issues pertaining to residential solid waste collection services provided at residential structures with 2, 3, or 4 living units. We specifically discussed compliance issues with City of Fort Smith Ordinance 250-09, which states, "the City of Fort Smith Department of Sanitation shall provide residential solid waste collection services to all residential areas of Fort Smith", as well as, compliance issues to Fort Smith municipal code section 25-261.

Following an October 2012 review of our residential solid waste collection routes, we revealed that a number of multiplex properties were allowed to utilize commercial containers (dumpsters), provided by the Department of Sanitation or a third party, for residential purposes. Per municipal code, they should have been provided curbside residential collections and should have never been allowed to utilize commercial containers or third-party haulers.

As previously discussed, commercial containers (dumpsters) utilized in residential areas pose a number of concerns for citizens living in the immediate vicinity. The primary purpose of the municipal code relating to commercial containers is to keep commercial containers out of residential areas as much as possible due to a number of factors:

- Commercial containers are prone to litter due to overfilling and/or lids being left open. Users tend to place items on the ground around the containers when they are at capacity resulting in blowing debris.
- Certain "residential" solid waste items are prohibited from being placed in commercial containers. Items such as tree debris, grass clippings, Freon bearing appliances, paint, tires, and batteries require special handling.
- Use of the commercial containers by persons not authorized to use them.

- Commercial containers are often not secured or maintained in a sanitary manner by their users resulting in odorous and/or rank smells.
- The presence of commercial containers in residential areas can be unsightly.
- The collection process of commercial containers is loud and often results in noise complaints from residents living in the vicinity. Commercial collections typically begin as early as 4:00 a.m. to avoid traffic on major thoroughfares resulting in collections of commercial containers in residential areas being made prior to the 7:00 a.m. start time as prescribed in the residential municipal code.
- A commercial container utilized in a residential area requires an additional solid waste collection vehicle to enter the neighborhood multiple times each week impacting road surfaces and traffic conditions.

The majority of the solid waste definitions listed in Section 25-261 of the municipal code were established in 1976. The definitions require updating to accommodate contemporary multifamily structure designs and current solid waste collection services. Department staff recommends amending the language of the definitions as follows:

- **Commercial customer** shall mean any customer whose use of a premises owned, leased, occupied or managed by such customer is for a purpose other than residential use or is a residential use consisting of more than four (4) residential living units per building structure for which solid waste is collected ~~and billed to a single customer~~. Each owner or agent of a multi-family building structure of over four (4) units shall have the option of being charged under residential or commercial collection rates, provided that a suitable container as provided for in the definition above is available.
- **Residential customer** shall mean any customer whose use of premises owned, leased, occupied or managed is for a residential purpose in a single-family building structure ~~or duplex structure or~~ multi-family building complexes with no more than four (4) living units per building structure.
- **Residential use** shall mean any structure used principally as a place of habitation with facilities for living, sleeping, eating, cooking, and parking, whether owned or rented by the occupants thereof, and shall include any single family house as one (1) unit, any duplex as two (2) units, any triplex as three (3) units, and any quadplex as four (4) units. Any individual family unit within a multiplex shall be included as one (1) unit.

Residential trash carts are the default method for solid waste collections at multiplexes provided the property meets the following criteria:

- The property design should allow proper space to allow fluid ingress and egress of fully-automated solid waste collection vehicles.

- The property should be clear of substantial obstacles, which may hinder curbside collections by fully-automated solid waste collection vehicles.
- The property should have enough space to accommodate multiple carts at the curb.
- The property should have ample storage space for the carts.
- Placing the carts curbside should not impede pedestrian walkways or motorists' line of sight view of oncoming traffic when entering or exiting the property.

Consideration will also be given to concerns posed by the property owners with regards to the type of collection method selected. Exceptions will be considered for unique circumstances; however, commercial containers will be a rare exception.

As requested by the Board, a residential multiplex, "per living unit", rate has been determined as follows:

<u>Service Level</u>	<u>Monthly Rate</u>
Residential Rate Effective July 1, 2013	\$ 13.28
Multiplex - Per Living Unit Rate	\$ 12.36

The new rate is based on the services commonly utilized by residents of multiplexes including:

- Garbage collection.
- Recyclables collection.
- Dial-A-Truck (bulky item) collection.

The rate includes subsequent reductions in operating costs from services, which are generally not utilized by residents of multiplexes including:

- Yard waste collection.
- Trouble Shooter services.
- Semi-annual citywide cleanup.
- Storm debris collection.

The rate also recognizes efficiencies in collecting from multiplex residences compared to single-family residences.

In summary, the staff recommends:

- a) All multiplexes receive residential solid waste collection services provided by the Department of Sanitation with automated carts unless that service delivery method is determined not practical by the Department based on the criteria outlined above.

- b) Multiplex properties be charged a rate of \$12.36 per month per unit regardless of how the service is delivered. This eliminates the economic incentive to request a commercial container.

The benefits of these recommendations include:

- Standardized solid waste collections in lower density residential areas.
- Fewer solid waste collection vehicles in neighborhoods.
- More opportunity for recycling.
- Fewer problems with uncollected bulky items.

Department staff will present amendments supported by the Board for approval at the July 9, 2013 meeting.

Please contact me should you have any questions regarding this report or would like additional information.

A handwritten signature in black ink, appearing to be the initials 'NK'.