

## ORDINANCE NO. 99-551-O

AN ORDINANCE DEFINING SOLID WASTE, PROVIDING FOR THE DISPOSAL OF SOLID WASTE AND REGULATIONS FOR THE DISPOSAL THEREOF, IMPOSING A LICENSE ON VEHICLES ENGAGED IN THE TRANSPORTATION OF SOLID WASTE AND GENERALLY REGULATING THE COLLECTION AND DISPOSAL OF SOLID WASTE IN THE CITY OF COLUMBIA CITY; PROVIDING PENALTIES FOR VIOLATION THEREOF; REPEALING ORDINANCE NO. 531; AND DECLARING AN EMERGENCY.

THE CITY OF COLUMBIA CITY ORDAINS AS FOLLOWS:

Section 1. Title and Jurisdiction. This ordinance shall be known as the City of Columbia City Solid Waste Management Ordinance, may be so pleaded, shall be referred to herein as "this ordinance," and shall apply to the incorporated area of the City of Columbia City.

Section 2. Purpose and Policy. The purpose of this ordinance is to protect the health, safety and welfare of the people of the City of Columbia City by adopting standards and regulations and providing for the issuance of franchises to assure the safe, sanitary, efficient and economical storage, collection, transport and disposal of solid waste.

Section 3. Definitions. For the purpose of this ordinance, the word "shall" is mandatory and not directory and the term "this ordinance" shall be deemed to include future amendments made to this ordinance and the following specific definitions shall apply:

"Collection service" means the collection and transportation of solid waste for compensation, under a franchise granted by the City of Columbia City, from the point of generation to a disposal site.

"Compensation" means any direct or indirect payment made by the person producing or last using solid waste or recyclable materials for its removal.

"Disposal site" means land or facilities authorized under ORS 459. et. seq. for the handling and disposal of solid waste including but not limited to landfills, transfer stations and resource recovery facilities.

"Drop box service" means a collection and transportation for compensation of solid waste requiring special vehicles to transport solid waste containers in excess of 19 cubic yards from the pick-up point to a disposal site.

"Franchise" means the authority granted by the City Council to provide solid waste service under Section 8 of this ordinance.

"Hazardous waste" means any waste that is:

- (a) Defined as hazardous waste by or pursuant to ORS Chapter 459; or

(b) Defined as hazardous waste by another governmental agency or unit having jurisdiction; or

(c) Found to be hazardous to service workers, to service equipment, or to the public by the franchise holder.

"Person" means any individual, public or private corporation, industry, partnership, association, firm, trust, estate, city, county, special district or local government unit and any other legal entity.

"Recyclable material" means materials which still have useful physical or chemical properties so that the material can be reused or recycled, including those which have been separated.

"Resource recovery facility" means a facility where energy or materials are recovered from solid waste.

"Solid waste" means any solid or semi-solid material including garbage, refuse, rubbish, and trash which is unwanted or discarded by the last user or producer or is illegally stored or deposited so as to create a public nuisance, except those materials classified as hazardous waste under and pursuant to the provisions of ORS Chapter 466.

#### Section 4. Collection of Solid Waste.

(a) Unless exempted as provided by this ordinance, no person shall provide solid waste collection service or drop box service or provide for the collection or transport of recycled materials for compensation or offer to provide or advertise for the performance of such service unless said person has a franchise issued by the City of Columbia City.

(b) Specific Exemptions. Subsection (a) of Section 4 does not apply to the following:

(1) The transportation by a person of solid waste produced by such person to a lawful disposal site or market. In the case of a non-owner-occupied property, the solid waste is produced and owned by the occupant and not by the landlord, property owner, or agent of such landlord or property owner.

(2) The collection, transportation and reuse of repairable or cleanable discards by private charitable organizations regularly engaged in such business or activity including but not limited to Salvation Army, St. Vincent De Paul, Goodwill and similar organizations.

(3) The collection, transportation, and reuse or recycling of separated recyclable materials or the operation of a collection center for recyclable materials by a religious, benevolent, or fraternal organization which organization was not organized for nor is operated for any solid waste management purpose and which organization is using the activity for fund raising, including but not limited to scouting and religious organizations.

(4) The collection, transportation or redemption of reusable and recyclable materials under ORS Chapter 459A.

(5) The generator, producer or source who transports and disposes of solid waste created as an incidental part of regularly carrying on the business of auto dismantling, janitorial service, gardening or landscaping service. "Janitorial service" does not include primarily or solely accumulating or collecting solid wastes created, generated or produced by a property owner or occupant.

(6) The purchase of separated recyclable material at fair market value.

(7) The pumping, collecting, transportation and disposal of sewage sludge, septic tank and chemical toilet pumpings or pulp mill sludge.

Section 5. Exceptions. The Council may authorize exceptions to provisions of the ordinance, provided the following requirements have been met:

(a) Applicant shall obtain an application form and file a completed application with the City Administrator/Recorder.

(b) Upon thirty (30) days written notice to the applicant and the City's franchise holder, a public hearing shall be held before the City Council.

(c) The City Administrator/Recorder shall provide information and recommendations to the Council to assist it in reaching a determination.

(d) The Council shall hold a public hearing and make findings. A decision as to whether an exception shall be granted will be based on carrying out the ordinance and upon all other applicable standards, which may include but need not be limited to, the following:

(1) The need for the proposed service.

(2) The ability of the City's franchise holder to provide the required service unless the service was otherwise being supplied on the effective date of this ordinance.

(3) There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by granting an exception.

(4) The granting of the application will not be materially detrimental or have substantial impact on service, consumer rates, or the City's franchise holder.

(5) The applicant has the necessary equipment, experience, finances and personnel to provide adequate service.

(e) An order by resolution shall be drawn setting forth the findings and the decision of the Council. Said order shall be distributed to said applicant and the City's franchise holder. The order may specify any

conditions or limitations deemed necessary by the Council to carry out the purposes of this ordinance.

Section 6. Specific Prohibition on Transportation of Solid Waste.

(a) No person while transporting or conveying solid waste within the City of Columbia City, Oregon, shall permit any portion thereof to become spread, scattered, lodged or left within or upon any street in said City.

(b) No solid waste shall be transported or conveyed upon or over a street within the City of Columbia City except that the same shall be conveyed and transported in a covered, watertight and drip-proof vehicle equipped with a metal-lined containers, or in metal-covered barrels; provided, however, that innocuous, non-decaying substances may be conveyed in suitable conveyances with adequate provisions against litter by covering and lashing.

Section 7. Public Responsibility. In addition to and not in lieu of compliance with ORS Chapter 459, and other applicable laws and regulations:

(a) No person shall leave infectious or hazardous waste for collection or disposal by the City's franchise holder. In the case of infectious waste, special arrangements shall be made by the customer with the collector for the collection of such waste. Upon request by a customer, the collector shall furnish to customer a 1-gallon canister for disposal of hypodermic needles. Collector may charge a fee of \$10 for the pickup and disposal of the contents of the canister at such time as it is full.

(b) No unauthorized person shall place material in or remove material from a solid waste collection container or box without permission of the owner of the container or box. For the purpose of this section, the City's franchise holder is the "owner" of containers or boxes supplied by the franchise holder.

(c) No unauthorized person shall remove solid waste placed out for collection and resource recovery by the franchise holder or a person exempted by Section 4(b) of this ordinance and operating solely within the exemption.

(d) The franchise holder is not required to service an underground container unless the person responsible for it places the can above ground prior to time of collection.

(e) No can for residential service shall be located behind any locked or latched door, gate or inside of any building or structure. All cans shall be placed in a location that is visible from the street. Residential cans and recycling bins shall be placed curbside (within 5 feet of the curb next to where the driveway enters to the public road, or in the case of streets that have no curb, within 5 feet of the main traveled street next to where the driveway enters the public street) by 6:00 a.m. on the

designated pickup day, unless other arrangements have been made with the franchisee for walk-in service. No can, bin or container shall be placed upon a public road. Cans, bins, and containers shall be placed on as level a surface as possible.

(f) Each customer shall provide safe access to the solid waste container or wastes without risk or hazard to franchise holder's employees, the public or the City's franchise holder. No solid waste container shall be placed in such a location as to require climbing up or down stairways. No person shall permanently locate such container or wastes on or in any public right-of-way without any written authorization of the City. The collector may charge a reasonable extra fee for return service to inaccessible containers or wastes.

(g) No container designed for mechanical pickup shall exceed safe loading weights or volumes as established by the City's franchise holder to protect service workers, the customer, the public and the collection equipment.

(h) The franchisee shall not be required to provide service to any customer, other than curbside (within 5 feet of the public street) unless the customer has arranged additional service. The franchise may charge an additional fee for walk-in service, defined as providing service at a residence that does not place the special can by the curbside or uses a can different from that provided by the franchisee. The cost of such service shall be based on the time and distance the franchisee must spend to provide the service. Walk-in service shall be charged for such service unless the customer is elderly or infirm and receiving licensed in-home care or has a certified disability and no other member of the household can place the can curbside.

(i) Stationary compacting devices for solid wastes shall comply with federal and state safety standards and provide adequate protection to user.

(j) No person shall block access to any container or drop box or roll off box supplied by the City's franchise holder. Franchise holder may charge extra for return service to such blocked container or drop box or roll off box.

(k) Every person who generates or produces waste shall remove or have removed all putrescible wastes at least every seven days. More frequent removal may be required by the City where a facility or service involves the public health. More frequent removal may be required by the City where a facility or service involves the public health. All wastes shall be removed at sufficient frequency as to prevent health hazards, nuisances or pollution.

(l) The producer or generator of waste shall clean both cans and containers and shall keep the area around such cans or containers

free of accumulated wastes. The franchise holder shall provide periodic maintenance to containers supplied by franchise holder.

(m) Solid waste cans for manual pickup shall be round, tapered outward at the top to facilitate unloading, have proper handholds or bales, be rigid, not crack or split and be waterproof, rust proof and rodent proof. Such cans shall not exceed thirty-two (32) gallons capacity nor sixty (60) pounds gross loaded weight.

(n) For the purposes of rates, roll cans provided by the franchisee shall equate as a 35-gallon roll can as one can, a 65-gallon roll can as two cans, and a 95-gallon roll can as three cans.

(o) Unless special service or service equipment is provided by the collector for handling unconfined waste, no person shall leave for manual pickup and collection materials such as rubbish and refuse, brush, leaves, tree cuttings and other debris except in securely tied bundles or in a box, sack or other receptacle. Solid waste so bundled, tied or contained shall not exceed sixty (60) pounds in weight.

(p) No person requiring an unusual volume of service or a special type of service requiring substantial investment in equipment shall refuse to enter into a contract with the collector as necessary to finance and assure amortization of such equipment. The purpose of this provision is to assure that such equipment not become a charge against other customers who are not benefited.

(q) No person shall place or cause to be placed any hazardous materials, and materials such as chemicals, paint, corrosive materials, infectious waste, and hot ashes in a can cart, container or drop box. When such materials or customer abuse, fire or vandalism causes excessive wear or damage to a cart, container or drop box, the costs of repair or replacement may be charged to the customer.

Section 8. Franchise. The City may grant exclusive or non-exclusive franchises for collection service or drop box service and enforce the same under the terms of this ordinance, or any other applicable ordinance.

Section 9. License Fee. The owner or proprietor of any solid waste collection business involving one or more vehicles which are used for the conveyance or transportation of solid waste upon any street within the City shall pay a license/franchise fee of \$300 per year for each vehicle so used for each calendar year, or portion thereof, payable annually in advance, except as provided in Section 4 hereof.

Section 10. Rate Determination.

(a) Rates for service shall be those contained in a resolution formally approved and adopted by the City Council.

(b) Changes in rates shall be made by resolution of the City Council. In determining rates, the Council shall give due consideration to current and projected revenue and expenses; actual and overhead expense; the cost of acquiring and replacement of equipment; the services of owner, family and management; the cost of providing for future, added or different service; a reasonable return to franchise holder for doing business; research and development; recycling and resource recovery; and such other factors as the Council deems relevant.

The Council may consider rates charged by other persons performing the same or similar service in the same or similar areas under the same or similar service conditions.

(c) The franchise holder shall provide sixty (60) days written notice of proposed rate changes with an accompanying statement of principal changes in the cost of providing service.

(d) The rates to be charged shall be those set by resolution. Nonscheduled services may be provided at the reasonable cost of providing the service giving consideration to the standards in (b) of this section.

(e) If approved in the rate schedule, franchise holder may charge:

- (1) A starting charge for a new service.
  - (2) A restart charge to any customer who has been previously terminated for failure to pay for service.
  - (3) Interest on past due accounts.
  - (4) The cost of bad debt collection.
- (f) The City shall be provided with free garbage collection.

Section 11. City Enforcement. The City shall enforce the provisions of this ordinance by administrative, civil or criminal action or any combination as necessary to obtain compliance with this ordinance. The Council shall take such legislative action as is necessary to support the ordinance and the franchise granted. The franchise holder may also enforce payment or protect its rights by appropriate civil action.

Section 12. Penalty. Any person violating any of the terms, provisions or requirements of this ordinance shall, upon conviction thereof, or upon a plea of guilty, be punished by a fine of not more than \$250.00. Each day's violation of a provision of this ordinance constitutes a separate offense.

[Section 13. Severability.]

[Section 14. Repealer.]

[Section 15. Emergency.]

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Passed by the council November 18, 1999 and approved by the mayor  
November 19, 1999.