

AN ORDINANCE GRANTING TO R. SANITARY SERVICE AN EXCLUSIVE FRANCHISE TO CONDUCT A SOLID WASTE COLLECTION AND HAULING BUSINESS IN THE CITY OF GARIBALDI; PROVIDING THE REGULATION AND EXERCISE OF FRANCHISE FOR A PERIOD OF TEN YEARS FROM AND AFTER MARCH 1, 1979.

The City of Garibaldi ordains as follows:

Section 1. Title. This ordinance shall be known as the City of Garibaldi Solid Waste Management Ordinance and may be referred to as the Franchise.

Section 2. Definitions. "Solid waste" means all putrescible and nonputrescible materials whether such is in a solid, semi-solid, or liquid form, including but not limited to garbage, rubbish, refuse, ashes, wastepaper and cardboard, plastic products, vegetable and animal solid and semi-solid material, fish and sea-food waste products, glass, and any other material disposed of by individual or commercial or industrial enterprises; provided, however, the term does not include the following:

- (a) Liquid petroleum products resulting from the operation of a commercial or industrial activity.
- (b) Discarded home and industrial appliances.
- (c) Environmentally hazardous wastes as defined in ORS Chapter 459 and rules and regulations promulgated by the Department of Environmental Quality and other state or any federal regulatory agency.
- (d) Discarded or abandoned vehicles.
- (e) Manure.
- (f) Tires.
- (g) Dead animals.
- (h) Demolition and construction wastes.
- (i) Waste from existing industrial enterprises which are of such a type as to provide a waste material of such volume, characteristics, or content as to not be compatible with the feasible, economical or practical operation to be conducted at the disposal site for the principal purpose of providing a solution to the disposal of solid waste which is presently being landfilled. Such described and excluded types of industrial waste includes but is not limited to material considered as of the date of this franchise to be useless of which is generally discarded by the wood products industry. Provided, however, wastes generated from present or future industrial enterprises, which due to volume, characteristics, or content is alleged by the franchise holder not to be

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compatible with its feasible, economical or practical operations, shall be exempted if such allegation is found to be true by the City Council after a public hearing. The hearing shall be set as soon as practicable. Pending the Council's determination, the franchise holder shall not be obligated to accept nor process such material.

(j) Pathological wastes.

(k) Collection drives of public service organizations approved by the Council after application is made to the Council and found by the Council not to materially alter or affect operations or profit of the franchise holder and which are conducted on a noncontinuous basis.

(l) Those materials and compounds above defined as solid waste which are precluded by an order of the Oregon Department of Environmental Quality or other state or federal regulatory agency from being permitted to be utilized by the franchise holder in the disposal or recycling process approved by the district and for which the franchise was granted.

(m) Beverage containers which have a refund value as defined and required by ORS 459.810 to 459.880.

(n) Metal products.

(o) Sewage sludge.

(p) Septic tank and cesspool pumpings.

(q) Used batteries.

(r) Used plumbing and used major kitchen appliances.

"Council" means the City Council of Garibaldi. "Person" means an individual, partnership, association, corporation, firm, trust, estate or other private legal entity whether such entity is organized for profit or nonprofit.

Section 3. Exclusive Franchise. There is hereby granted to R. SANITARY SERVICE of WHEELER, OREGON, the permission, authority and franchise to conduct a solid waste collecting and hauling business in the City of Garibaldi, State of Oregon, for a period of TEN years, from March 1, 1979. The franchise shall be subject to the terms and conditions contained in this ordinance. This franchise shall be an exclusive franchise to GEORGE REDING dba R SANITARY SERVICE.

Section 4. Franchise Fee. As compensation for the right, privilege and franchise hereby granted, and for the length of this franchise, the grantee shall pay quarterly to the City Recorder of the City of Garibaldi an amount equivalent to two percent of the grantee's "gross revenues" as defined herein.

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The term "gross revenues" as used herein shall mean and be construed as the amount of money actually collected by the grantee from its Garibaldi customers during the quarter of time in question except that portion of money collected on behalf of Tillamook County for the operation of the solid waste program. The grantee shall keep accurate books of account and the City shall have the right to inspect the same at all times during business hours and from time to time to audit the same for the purpose of determining such gross revenues. The City Council may set a fixed sum to be paid in lieu of the franchise fee percentage.

Section 5. Franchise Responsibility. The franchisee shall operate within the schedule of rates established by this franchise and shall exercise every effort to give the citizens of Garibaldi a prompt and efficient service at all times. The franchisee shall have the privilege of a hearing at which he may have legal counsel in the event there is a dispute involving this franchise. The franchisee shall:

(1) Dispose of wastes collected at a site approved by the City that is in compliance with Chapter 459, Oregon Revised Statutes and regulations promulgated thereunder.

(2) Provide and keep in force public liability insurance with a 30 day cancellation clause in the amount of not less than \$100,000 for injury to a single person, \$300,000 to group of persons and \$50,000 property damage, all relating to a single occurrence, which shall be evidenced by a certificate of insurance filed with the City Recorder. The insurance shall indemnify and save the City harmless against liability or damage which may arise or occur from an injury to persons or property resulting from the franchisee's operation under this ordinance.

(3) Within 15 days after the effective date of this ordinance, file with the City Recorder a written acceptance of this franchise.

(4) Furnish sufficient collection vehicles, containers, facilities, personnel, finances and scheduled days for collections in each area of the City necessary to provide all types of service required under this ordinance.

(5) Upon receipt of a written complaint about service under this ordinance, the franchisee shall, within seven days, reply to the complainant in writing and furnish a copy of both pieces of correspondence to the City.

(6) Maintain a bill paying station or address within the City, provide telephone service so that the franchisee may be reached by the public during the period from 8:00 am to 4:00 pm Monday through Friday. Telephone service means local non-toll telephone service available to customers of Garibaldi.

(7) Collect no residential solid waste before 5:00 am or after 7:00 pm unless this condition is waived by the City Council except during Daylight Savings Time when no collection shall be made after 9:30 pm.

(8) Provide collection and disposal of solid waste to anyone within the city limits of the City of Garibaldi if a request is made for such service.

(9) Insure that every vehicle or container used for the transportation of solid waste through the streets shall be maintained in a reasonable sanitary condition.

(10) Provide each new solid waste service customer with a copy of the current rate schedule, collection rules and regulations, and scheduled day of collection.

(11) Permit inspection by the City of the franchisee's facilities, equipment and personnel at reasonable times.

(12) Respond to all calls for special hauling within 96 hours of receiving said calls unless a later pickup is agreeable.

Section 6. Transfer, Modification or Revocation of Franchise.

The franchisee shall not transfer this franchise or any portion thereof to other persons, including the transfer of the controlling interest of a corporation, without 30 days written prior notice of the intent and without written approval of the City Council. A failure to comply with the provisions of this ordinance after written notice and a reasonable opportunity to comply shall be grounds for the modification, revocation or the suspension of this franchise by the City.

Either party to this franchise shall have a right to a hearing before the City Council for the purposes of modification of the rates prescribed in Section 7. The franchises shall have the right to request modification of the rates at any time upon reasonable showing to the Council that a rate relief is necessary for the continued operation of franchisee's business at a reasonable rate of return.

In the event of a hearing, such hearing shall be held upon the decision of the Council and a 30 day notice. In the event a hearing is to consider a change in rates, the City Council shall provide for public notice reasonable calculated to inform the public of the prospective changes prior to the hearing.

Section 7. Rates. The maximum per month that the franchisee may charge for removal of solid waste or refuse shall be as follows:

MINIMUM MONTHLY RATES FOR ONCE A WEEK SERVICE

| | (curbside (roadside) | (long pickup) |
|--|-------------------------|---------------|
| 1 can..... | \$3.00..... | \$3.75 |
| 2 cans..... | \$5.00..... | \$6.50 |
| Each additional can..... | \$2.00..... | \$2.75 |
| For accounts requiring more frequent pickups, the minimum rate shall be multiplied by the number of pickups. | | |

25% additional charge for 1 flight of steps up or down or for entering a building

Straight handling charge per can.....\$2.00

HOURLY HAULING RATES

Truck and 1 man.....\$20.00 per hour

Truck and 2 men.....\$35.00 per hour

Minimum charge.....\$20.00

CHARGES FOR CONTAINER SERVICE

The operator shall retain ownership of the containers and make the following charges to the consumer. The charges shall be for the full capacity of each container furnished.

One 1 yd. container once a week.....\$20.00

One 1 yd. container two times a week.....\$35.00

One 1 yd. container three times a week.....\$50.00

One 1½ yd. container once a week.....\$26.00

One 1½ yd. container two times a week.....\$46.00

One 1½ yd. container three times a week.....\$66.00

For the purposes of this ordinance, "can" is considered to be a container of not more than 30 gallons with a combined weight of contents and can not exceeding 60 pounds.

Franchisee shall not be required to service underground cans unless the property owner places the cans above ground for pickup.

The foregoing rate schedule does not reflect costs of operation which will be involved when central haul fill program is in operation in Tillamook County, Oregon.

Passed by the Council and approved by the Mayor this 12TH day of MARCH, 1979.