

GENERAL ORDINANCE NO. 92-1155

AN ORDINANCE REGULATING THE COLLECTION AND DISPOSAL OF SOLID WASTE; PROVIDING FOR THE COLLECTION OF RECYCLABLE MATERIAL; PROVIDING FOR LICENSES AND FRANCHISES FOR PERSONS WHO COLLECT AND DISPOSE OF SOLID WASTE AND RECYCLABLE MATERIALS; REPEALING GENERAL ORDINANCE NO. 85-1062, AND DECLARING AN EMERGENCY

THE PEOPLE OF THE CITY OF THE DALLES DO ORDAIN AS FOLLOWS:

Section 1. Definitions.

(a) "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes, dead animals, infectious waste as defined in ORS 459.386 and other wastes; but the term does not include:

- (1) Hazardous wastes as defined in ORS 466.005.
- (2) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of animals.

(b) "Collectible solid waste" means solid waste collected and hauled by a franchisee, including special wastes in a limited quantity, but does not include sewage sludge, septic tank and cesspool pumpings or other sludge; discarded or abandoned vehicles or parts thereof; manure, vegetable or animal solid and semisolid wastes; hazardous wastes as defined in ORS 466.005; and materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of animals.

(c) "Person" means a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate, or any other legal entity.

(d) "Recyclable material" means any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material.

(e) "Licensee" or "Franchisee" means a person who is granted a license or franchise pursuant to the provisions of this ordinance.

Section 2. Accumulation and Burning of Solid Waste Prohibited. It shall be unlawful for any person to dump, collect, remove or in any other manner accumulate or dispose of solid waste upon any street, alley, public place or private property within the City of The Dalles, except as provided herein. The burning of rubbish shall be in accordance with the provisions of General Ordinance No. 90-1103. No person shall burn putrescible garbage under any circumstances.

Section 3. Compliance with State Laws. All licensees and franchisees shall comply with all applicable statutes, rules, and administrative regulations concerning the collection and disposal of collectible solid waste and recyclable material enacted by the State of Oregon. In the event the State statutes or regulations impose duties upon licensees or franchisees which are in addition to or different from the duties imposed by this ordinance, the State statutes and regulations shall be fully complied with.

Section 4. Standards for Design and Placement of Collection Receptacles; Handling of Recyclable Materials.

(a) Residential garbage containers shall be placed outside of any building or locked enclosure on the day of collection. Gates shall be unlocked and shall be of a design that allows operation with one hand. Residential garbage containers shall be constructed of plastic or metal with a tightly-fitting lid which shall be in place and secured. Residential containers shall be equipped with at least two lifting handles on the exterior, each of which shall be capable of independently supporting the weight of the container when loaded. All residential and commercial containers shall be designed and constructed to prevent entry by insects, animals, or vermin, and shall be leak proof or used with a disposable plastic liner. The loaded weight of garbage containers other than commercial use containers shall not exceed 65 pounds.

(b) Recycling containers shall be placed outside single family units, and multi-family dwelling complexes having five or more units, within 24 hours of collection, in clear view of the street and not upon sidewalks. Recyclable material shall include, but not be limited to, glass, tin cans, aluminum, motor oil, corrugated cardboard, brown paper sacks, paper, and other material as may be required by the Department of Environmental Quality. Customers shall use containers furnished by a licensee or franchisee, or place the recyclable material in a secure container. Motor oil shall be placed in an unbreakable resealable container. All cardboard boxes must be flattened and anchored. Any material except motor oil may be placed in plastic bags. During rainy or snowy weather, paper products (newspaper or cardboard boxes) shall be placed in water repellent plastic bags or other waterproof containers.

Section 5. Submerged Containers Prohibited. The installation and use of submerged garbage or recycling containers is prohibited, effective July 7, 1980. However, submerged containers in use prior to July 7, 1980, may continue to be used subject to an additional charge to be set by resolution of the City Council. For the purpose of this section, a "submerged container" is any container, the bottom of which is below the elevation of the surrounding surface including, but not limited to, containers located in a concrete, metal or earthen well.

Section 6. Franchise Granted; Overlapping Franchise Applications; Exemption from Franchise Requirement. [Amended by General Ordinance No. 04-1251, adopted by City Council and approved by the Mayor January 26, 2004.]

(a) The City Council hereby grants to Waste Connections of Oregon, Inc., dba The Dalles Disposal, an Oregon corporation, the privilege and franchise to operate and conduct a solid waste collection service excluding biomedical and infectious wastes within the service area, subject to the terms and conditions herein. The City Council may provide for overlapping solid waste franchises, upon due and timely notice to the franchisee, and upon enumerated circumstances under which the existing franchisee has been deemed to have failed to provide efficient service consistent with the public health and safety. Following written notice of the City's intentions to issue an overlapping franchise, the existing franchisee shall have an opportunity for a hearing on the issue of duplicative franchise issuance. Following a hearing, the City Council shall determine whether the existing franchisee has corrected the circumstances leading to the issuance of the for cause notice and/or whether a wholly or partially duplicative franchise should be issued.

- (b) It shall be unlawful for any person to collect and/or transport solid waste or recyclables in the City without having obtained a franchise to operate. Non-profit religious, charitable, youth or community service organizations collecting and/or transporting recyclable materials shall be exempt from the franchise requirement, provided any such organizations collect and/or transport all recyclable materials in a safe and secure manner to prevent littering of the streets and adjoining areas and transport all waste generated for disposal only at The Dalles Disposal Company Transfer Station or the Wasco County Landfill.
- (c) The franchise requirement shall also exclude persons who transport solid waste in their own vehicle purely as an incidental adjunct to some other established business owned or operated by the person in good faith, or person(s) transporting solid waste or source-separated recyclable materials generated from a residence by that person or household, provided however, that all such solid waste so transported shall be tendered for disposal only at The Dalles Disposal Company Transfer Station or the Wasco County Landfill. All such collection and/or transportation activities shall contain solid waste and/or source-separated recyclable materials hauled in such a manner as to prevent leakage or litter upon the streets, which waste or recyclable materials shall only be transported to and/or disposed at The Dalles Disposal Company Transfer Station or the Wasco County Landfill, with the provision that recyclable materials may also be transported to a facility authorized to accept source-separated recyclable materials.
- (d) The franchise requirement shall not apply to a person engaging exclusively in the collection of biomedical and infectious medical waste material within the City. [Subsection added by Ordinance 05-1265, adopted by City Council November 28, 2005.]

Section 7. License Fee; Franchise Fee; Granting and Transfer of Licenses and Franchises.
[Amended by General Ordinance No. 04-1251, adopted by City Council and approved by the Mayor January 26, 2004.]

- (a) Any person granted a franchise to engage in the business of collecting and hauling recyclable materials, shall pay an annual fee of \$100.00 for each vehicle used in the pickup and transportation of recyclable material.
- (b) Any person engaging in the business of collecting and hauling collectible solid waste material, in addition to collecting and hauling residential recyclable materials, shall first apply to the City for a franchise, and shall pay an annual license fee of \$100.00 per vehicle used to collect and haul recyclable material, or biomedical and infectious waste material. Any franchise granted by the City shall

be valid for a period of ten (10) years. In addition to paying the annual license fee, the franchisee shall pay the City of The Dalles a franchise fee calculated at three percent (3%) of the franchisee's gross revenues from the collection of solid waste or biomedical and infectious waste material which may be passed through to customers. The fee shall be payable on either a quarterly basis, on the fifteenth days of April, July, October, and January of each year, or on a monthly basis by the 20th of each month, at the option of the franchisee. The amount of the annual franchise fee shall be reviewed on an annual basis, and may be increased upon the Council's determination that an increase is in the public interest. [As amended by Ordinance 05-1265, adopted by City Council November 28, 2005.]

Section 8. Franchisees to Provide Recycling Service.

- (a) Each franchisee within the City of The Dalles shall collect source separated recyclable material from citizens within the boundary of the City on a weekly basis. Further, each such franchisee shall maintain a drop station on its own property within the City at which source separated recyclable materials may be deposited by the public. The franchisee shall provide separate secure containers for paper, cardboard, metals, glass, petroleum products and such other materials as the State of Oregon shall designate.
- (b) Each recycling licensee shall also maintain such a drop station. Any licensee may provide containers for recyclable material on any property accessible to the public with the permission of the property owner, or designated person in charge of the property. Such containers shall be maintained in an aesthetically pleasing manner, painted and shall be monitored by the licensee to ensure the containers are not filled to such a capacity that additional material is piled in the area of the container.

Section 9. Revocation of License or Franchise. All franchisees shall collect and haul collectible solid waste material and recyclable materials for any qualified customer in the City, who has paid the applicable rate for providing such service. If the City receives complaints or allegations that a franchisee or licensee has not provided service in accordance with the provisions of this ordinance, the licensee or franchisee shall be provided with a written notice outlining the nature of the complaints or alleged violations, and a hearing shall be scheduled before the City Council. If the City finds the complaints or allegations have been proven by substantial evidence, the licensee or franchisee shall be given a thirty (30) day period to correct the violations. If the violations have not been corrected within the thirty (30) day period, the Council shall revoke the license or franchise previously granted.

Section 10. Notice of Recycling to Customers. Each franchisee shall inform collection customers of the opportunity to recycle by a printed notice appearing upon its billing invoice. The notice shall state that the opportunity to recycle is available to the customer at no additional charge and shall notify the customer of the means by which further information may be obtained from the franchisee.

Section 11. Rates and Charges. The rates established under this section shall be just and reasonable and adequate to provide necessary collection service. The rates established by the City Council by resolution shall allow the person holding the collectible solid waste franchise to recover any additional costs of education, promotion, and providing notice of the opportunity to recycle at the minimum level required by the State of Oregon or at a higher level of recycling required by or permitted by the City.

Section 12. Solid Waste to be Hauled to Designated Sites Only. All persons in The Dalles are hereby required to dispose of all perishable garbage before the same shall have become offensive, and not create a nuisance by permitting any garbage or refuse to accumulate on or about premises, and to dispose of said garbage or refuse in the manner prescribed by this ordinance, by hauling or causing the same to be hauled to a sanitary landfill or transfer station designated in accordance with State law.

Section 13. Vehicle Requirements for Haulers. It shall be unlawful for any franchised collectible solid waste hauler to transport collectible solid waste in The Dalles except in a vehicle which complies with State Department of Transportation requirements, is equipped with a covered, watertight and drip-proof metal box with welded seams, and is thoroughly washed; provided, however, that non-liquids and innocuous substances may be conveyed in suitable conveyances with provision against litter by having a covered waterproof and closable box. All vehicles of a licensee who is not a solid waste collector shall comply with all applicable local, state and federal vehicle regulations, and be equipped with a covered waterproof closable box.

Section 14. Records of Franchisees. It shall be the duty of any franchisee hereunder to keep a proper set of books or records of account in accordance with sound accounting principles and practices applicable in the industry. Such books and records shall accurately reflect the amount of the franchisee's income and expenses, and financial condition, from the operation of the business within the City of The Dalles. If the franchisee operates an integrated collection and disposal system serving the City of The Dalles and adjacent areas, the records shall reflect the income, expenses and financial conditions of the integrated operation. These books and records shall be open to the inspection of the Finance Director or the Director's authorized designee at all reasonable times. On or before March 31, of each year, all franchisees shall file a sworn statement with the City Clerk covering the franchisee's business or portion thereof. The statement shall properly and accurately reflect the income, expenses and financial condition of the franchisee's business based on the books and records described above. The statement filed by the franchisee shall be accessible only to the Mayor and members of the City Council, the City

Manager, the City's independent auditor, the City Clerk, City Finance Director, and the City Attorney.

Section 15. Treatment of Recycling Costs by Licensee. The costs to a collectible solid waste franchisee of recycling shall be included in its garbage rates. In no case shall the franchisee levy a fee or charge upon a customer for recycling that causes the total bill of the customer to be in excess of charges to a similarly situated customer who does not recycle.

Section 16. Violations. Any person violating any of the terms of this ordinance shall, upon conviction thereof in the Municipal Court, or upon a plea of guilty before such Court, be subject to a fine not exceeding \$6,250.00 or to imprisonment in the County jail for a period not exceeding one (1) year, or to both such fine and imprisonment, and for the costs of prosecution. [As amended by Ordinance 05-1264, adopted by City Council November 28, 2005.]

Section 17. Continuation of Licenses, Franchises and Rate Schedules. Licenses granted pursuant to General Ordinance No. 85-1062 shall continue to be valid as if issued pursuant to this ordinance until they expire, are renewed, or are revoked, except that licensees and franchisees shall abide by the terms of this ordinance from its effective date forward. Rate schedules adopted pursuant to General Ordinance No. 85-1062 shall remain in effect under this ordinance until modified, rescinded or superseded.

Section 18. Recycling Schedules. Each franchisee and recycling licensee under this ordinance shall file with the City Clerk any schedule it establishes to collect recyclable materials, showing different areas of the City and the days collection of recyclable material will be made in each area. The Clerk shall furnish a copy of such schedule to each licensee and garbage franchisee to prevent violation of ORS 459A.080, which prohibits collection of recyclable material without the express consent of the person who placed the material to be picked up.

Section 19. Repeal. General Ordinance No. 85-1062 is hereby repealed.

Section 20. Emergency. Whereas, the 1991 Oregon Legislature enacted new regulations concerning the collection and disposal of solid waste and recyclable materials, which necessitate changes in the City's ordinance concerning the collection and handling of such materials; and whereas, the City Council believes it is in the interest of public health and safety to promote recycling, to reduce the amount of solid waste material which has to be deposited in local landfills; NOW, THEREFORE, an emergency is declared to exist, and this ordinance shall go into full force and effect immediately upon its passage and approval.

Passed by the Council and Approved by the Mayor November 2, 1992.