

ORDINANCE NO. 46

AN ORDINANCE RELATING TO SOLID WASTE MANAGEMENT IN THE CITY OF LAKESIDE, OREGON, INCLUDING BUT NOT LIMITED TO, GRANTING TO DONALD J. HORNING, PATRICIA A. HORNING, RONALD J. HORNING, AND ROSE ANNE HORNING, A PARTNERSHIP, dba HORNING BROS. SANITARY SERVICE, THE EXCLUSIVE FRANCHISE TO COLLECT, TRANSPORT AND CONVEY SOLID WASTES OVER AND UPON THE STREETS OF THE CITY; CREATING NEW PROVISIONS: REPEALING ORDINANCE NUMBER 6 AND DECLARING AN EMERGENCY

THE CITY OF LAKESIDE ORDAINS AS FOLLOWS:

Section 1. Short Title. This Ordinance shall be known as the "Solid Waste Management Ordinance:" and may be so cited and pleaded, and shall be cited herein as "this Ordinance."

Section 2. Purpose, Policy and Scope.

(1) It is declared to be the public policy of the City of Lakeside to regulate solid waste management to:

(a) Insure safe, economical and comprehensive solid waste service.

(b) Insure rates that are just, fair, reasonable, and adequate to provide necessary public service and to prohibit rate preferences and other discriminatory practices.

(c) Provide for technologically and economically feasible resource recovery by and through franchisee in coordinated county-wide program.

(2) Except for the franchisee under this Ordinance, no person shall:

(a) Provide service for compensation or offer to provide or advertise for the performance of such service.

(b) Provide service for compensation to any tenant, lessee or occupant of any real property of such person.

Section 3. Definitions:

(1) Compensation. Includes:

(a) Any type of consideration paid for service including, but not limited to rent, the proceeds from resource recovery and any direct or indirect

provision for payment of money, goods, services or benefits by tenants, lessees, occupants, or similar persons.

(b) The exchange of service between persons; and

(c) The flow of consideration from the person owning or possessing the solid waste to the person providing service to the person owning or possessing the same.

(2) Council. The City Council of the City of Lakeside, Oregon.

(3) Franchisee. The person granted the franchise by Section 4 of the Ordinance, or a subcontractor to such person.

(4) Person. An individual, partnership, association, corporation, trust, firm, estate or other private legal entity.

(5) Service. Collection, transportation or disposal of or resource recovery from solid wastes.

(6) Resource Recovery. The process of obtaining useful material or energy resources from solid wastes including energy recovery, materials recovery, recycling and reuse of solid wastes.

(7) Solid Waste. All putrescible and non-putrescible waste including but not limited to, garbage, rubbish, refuse, ashes, swill; waste paper and cardboard; grass clippings; compost; residential, commercial and industrial appliances, construction wastes; discarded residential, commercial and industrial appliances, equipment and furniture; discarded, inoperable or abandoned vehicle parts and vehicle tires; manure, vegetable, or animal solid or semi-solid waste, dead animals and all other wastes not excepted by this subsection. Solid waste does not include:

(a) Hazardous wastes as defined by or pursuant to ORS Chapter 459 or by the City of Lakeside or by the franchisee, the latter for good cause.

(b) Sewer sludge and septic tank and cesspool pumping or chemical toilet waste.

(c) Reuseable beverage containers as defined in ORS 459.860.

(8) Solid Waste Management. Management of service.

(9) Waste. Material that is no longer directly usable by or that is no longer wanted by the source of the material, which material is to be disposed of or be resource recovered

by another person.

Section 4. Exclusive Franchise and Exceptions. There is hereby granted to Donald J. Horning, Patricia A. Horning, Ronald J. Horning, and Rose Anne Horning, a partnership, dba Horning Bros. Sanitary Service, the exclusive right, privilege and franchise to provide service in and for that purpose to utilize the streets and facilities of the City of Lakeside. Nothing in this franchise or this section or Ordinance shall:

(1) Prohibit any person from transporting wastes he produced himself to an authorized disposal site or resource recovery facility providing he complies with Section 14 of this Ordinance.

(2) Prohibit any person from contracting with a state or federal agency to provide service to such agency, provided, however, such person shall apply for a franchise for that service only and shall comply with all applicable requirements imposed on the franchisee under this Ordinance with the exception of rates or terms of service set by contract with such agency where they are in conflict.

(3) Prohibit the Council from withdrawing certain resource recovery practices by amendment to this Ordinance, upon a finding that such practice or practices need not be regulated to implement this Ordinance.

(4) Prohibit any person from engaging in a fraternal, charitable, civic, or benevolent activity, approved by the Council under the purposes of this Ordinance.

Section 5. Franchise Term. Unless sooner terminated pursuant to Section 9 hereof, the rights, privileges and franchise herein granted shall continue and be in full force to and including the 31st day of December, 1989. Unless grounds exist for suspension, modification or revocation of the franchise under Section 9 of this Ordinance, the franchise shall be renewed for an additional 5 year term upon filing of an application for renewal on forms provided by the City Recorder, which application shall be reviewed by the City Council for continued compliance with this Ordinance. Said application for renewal shall be filed not less than 120 days before the expiration date of the franchise.

NO. 63
~~Section 6.~~ Franchise Fee. In consideration of said franchise, franchisee agrees to provide to the City of Lakeside the following services in lieu of money; Removal of garbage belonging to the City at such times as shall be requested by

SEE ORD #93

the City, such services by the franchisee to be without charge to the City. Franchisee shall install at least five cans or street refuse containers, and the franchisee shall also regularly and at suitable periods empty the same without charge to the City. Said services shall be in lieu of a money fee until December 31, 1984 at which time the Council shall review the fee. The Council reserves the right to then impose a fee not to exceed 3% of franchisee's gross receipts for service within the franchise area.

Section 7. Franchise Responsibility.

1. The franchisee shall:

(a) Dispose of wastes collected at a site approved by the local government unit having jurisdiction of or recover resources from the wastes, both in compliance with Chapter 459, Oregon Revised Statutes and regulations promulgated thereunder.

(b) Provide and keep in force public liability insurance in the amount of not less than \$100,000 for injury to a single person, \$300,000 to a group of persons and \$25,000 property damage, all relating to a single occurrence, which shall be evidenced by a certificate of insurance filed with the City Recorder.

(c) Provide service a minimum weekly to the business district and residential areas and uses.

(d) Provide sufficient collection vehicles, containers, facilities, personnel and finances to provide all types of necessary service or sub-contract with others to provide such service pursuant to Section 12 of this Ordinance.

(e) Respond to any written complaint on service.

2. The franchisee shall not:

(a) Give any preference to any person, locality or type of solid waste stored, collected, transported, disposed of, or resource recovered. This paragraph shall not prohibit uniform classes of rates based upon length of haul, type or quantity of waste handled and location of customers so long as such rates are reasonably based upon costs of the particular service and are approved by the council in the same manner as other rates by the Council in the same manner as other rates nor shall it prevent any person from volunteering service at reduced cost for a fraternal, charitable, community, civic or benevolent purpose.

(b) Transfer this franchise or any portion thereof to other persons without the prior written approval of the Council, which consent shall not be unreasonably withheld. The Council shall approve the transfer if the transferee meets all applicable requirements met by the original franchisee. A pledge of this franchise as financial security shall be considered as a transfer for the purposes of this subsection. Council may attach whatever conditions it deems appropriate to guarantee maintenance of service and compliance with this Ordinance.

Section 8. Supervision. Service provided under the franchise shall be under the supervision of the Mayor. Franchisee shall, at reasonable times, permit inspection of his facilities, equipment and personnel providing service.

Section 9. Suspension, Modification or Revocation of Franchise.

(1) Failure to comply with a written notice to provide necessary service or otherwise comply with the provisions of the Ordinance within 30 days after written notice shall be grounds for modification, revocation or suspension of the franchise.

(2) After written notice from the Council that such grounds exist, the franchisee shall have 30 days from the date of mailing of the notice in which to comply or to request a public hearing before the Council. Except as provided in subsection 5 of this section, such request shall stay any action by the Council under this section until the public hearing. Franchisee shall be given notice of such hearing, in writing, at least 5 days before the date of said hearing.

(3) If the franchisee fails to comply within the specified time or fails to comply with the order of the Council entered upon the basis of findings at the public hearing, the Council may suspend, modify or revoke the franchise, or make such action contingent upon continued non-compliance.

(4) At a public hearing, the franchisee and other interested persons shall have an opportunity to present oral, written or documentary evidence to the Council.

(5) In the event that the Council finds an immediate and serious danger to the public through creation of a health hazard, it may take action within a time specified in the notice to the franchisee and without a public hearing prior to taking such action.

Section 10. Preventing interruption of Service. The franchisee agrees as a condition to his franchise that whenever the Council determines that the failure of service or threatened failure of service would result in creation of an immediate and serious health hazard or serious public nuisance, the Council may, after a minimum of 24 hours actual notice to franchisee and a public hearing if franchisee requests it, authorize another person to temporarily provide the service or to use and operate the land, facilities or equipment of the franchisee through leasing to provide emergency service. The Council shall return any seized property and business upon abatement of the actual or threatened interruption of service. Written notice by certified or registered mail to franchisee shall be deemed actual notice.

Section 11. Termination of Service. The Franchisee shall not terminate service to all or a portion of his customers unless:

(1) The street or road access is blocked and there is no alternate route and provided that the City of Lakeside shall not be liable for any such blocking of access.

(2) Excessive weather conditions render providing service unduly hazardous to persons providing service or such termination is caused by accidents or casualties caused by an act of God or a public enemy.

(3) A customer has not paid for service provided after a regular billing and after a seven-day written notice to pay.

(4) Ninety days' written notice is given to the Council and to affected customers and written approval is obtained from the Council.

Section 12. Subcontracts. The franchisee may subcontract with others to provide a portion of the services where franchisee does not have the necessary equipment or service. Such a subcontract shall not relieve the franchisee of total responsibility for providing and maintaining service and from compliance with this Ordinance. Except where emergency service is provided by a subcontractor, such subcontract shall be in writing, shall be filed with the City Recorder for any service extending more than 90 days and said subcontractor shall have no claim or right of action whatsoever against the City of Lakeside.

Section 13. Rates. Rates for service shall be those contained in the document marked "Exhibit A", attached hereto and by this reference hereby incorporated in this Ordinance. Changes in rates shall be made only by Ordinance amending "Exhibit A".

Section 14. Public Responsibility. In addition to compliance with ORS Chapter 459 and regulations promulgated pursuant thereto:

(1) To prevent recurring back and other injuries to collectors and other persons and to comply with safety instructions to collectors from the State Accident Insurance Fund:

(a) No garbage can shall exceed 60 pounds gross loaded weight or 32 gallons in size. Only round garbage cans shall be used. Cans should be tapered with a smaller bottom than top opening.

(b) Sunken refuse cans or containers shall not be used.

(c) To protect against injuries to users or collectors, to protect against damage and spilling during cold weather and to protect against rodent hazards, only metal garbage cans or equivalent shall be used or any other can shall be rigid, rodent and fire proof with adequate handgrips on sides and bottom.

(d) The user shall provide safe access to the pickup point so as not to jeopardize the safety of the driver of a collection vehicle or the motoring public or to create a hazard or risk to the person providing service. Where the Mayor finds that a private bridge, culvert or other structure or road is incapable of safely carrying the weight of the collection vehicle, the collector shall not enter onto such structure or road. The user shall provide a safe alternative access point or system.

(2) To protect the privacy, safety, pets and security of customers and to prevent unnecessary physical and legal risk to the collectors, a residential customer shall place the container to be emptied outside of any locked or latched gate or in a mutually agreed upon location.

(3) No stationary compactor or other container for commercial or industrial use shall exceed the safe loading design limit or operation limit of the collection vehicles provided by the franchisee serving the service area. Upon petition of a group of customers reasonably requiring special service, the Council may require the franchisee to provide subcontract provision for vehicles capable of handling specialized loads including drop box trucks and systems.

(4) To prevent injuries to users and collectors, stationary compacting devices for handling solid wastes shall comply with applicable federal and state regulations.

(5) Any vehicles used by any person to transport wastes shall be so loaded and operated as to prevent the wastes from dropping, sifting, leaking, blowing, or other escapement from the vehicle onto any public right of way or lands adjacent thereto.

(6) Any person who receives service shall be responsible for payment for such service. When the property owner of a single or multiple dwelling unit or mobile home or trailer space has been previously notified in writing by the franchisee of his contingent liability, the property owner shall be responsible for payment for service provided to the occupant of such unit if the occupant does not pay for the service.

(7) Provided, however, this section does not create any legal liability or cause of action against the City or users for any injuries sustained by franchisee, its employees, agents, or subcontractors for failure to comply with this section.

Section 15. Construction. Any findings by any court of competent jurisdiction that any portion of this Ordinance is unconstitutional or invalid shall not invalidate any other provision of this Ordinance.

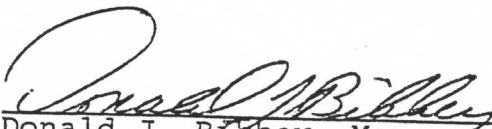
Section 16. Penalties. Violation by any person of the provisions of this Ordinance shall be deemed to be a misdemeanor and shall be punishable upon conviction of a fine of not more than Five Hundred Dollars (\$500.00).

Section 17. City Enforcement. The City of Lakeside shall enforce the provisions of this Ordinance by administrative, civil or criminal action as necessary to obtain compliance with this Ordinance.

Section 18. Emergency Clause. To provide for safe and sanitary solid waste management in the City and thereby preserve the health, safety and welfare of the residents thereof, an emergency is declared to exist and the terms and provisions of this Ordinance shall become effective upon enactment of this Ordinance.

Section 19. This franchise shall not be effective until a copy thereof is signed by the franchisee and filed with the City Recorder. If not so accepted, signed and filed within 30 days of its passage, this franchise shall lapse and terminate.

ADOPTED this 15 day of November, 1979.


Donald J. Bibbey, Mayor

ATTEST:


City Recorder

ACCEPTED:

Partner

Date

HORNING BROS. SANITARY SERVICE

Proposed rate increase July 1, 1980

APPROVED
BY CITY
COUNCIL
6-19-80
GMC

RESIDENTIAL RATES, 1 stop per week service
Standard can not to exceed 32 gallons

1 can\$ 3.50 per month
2 cans..... 5.25 per month
each additional can..... 2.05 per month

ALLIED
7-28-85
SEE ORN
110.95
GMC

COMMERCIAL RATES, 1 stop per week service
Standard can not to exceed 32 gallons

1 can.....\$ 4.10 per month
2 cans..... 5.80 per month
Each additional can..... 2.65 per month

COMMERCIAL RATES, 2 stops per week service

1 can.....\$ 7.50 per month
2 cans..... 11.00 per month
Each additional can..... 4.60 per month

NUMBER OF STOPS PER WEEK & CHARGES PER MONTH

	<u>One</u>	<u>Two</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>	<u>Six</u>
<u>ONE-YARD CONTAINERS</u>						
one 1-yard container	17.50	29.00	42.50	55.00	66.50	78.00
two 1-yard containers	32.50	55.00	79.00	100.25	122.50	144.00
each additional container	15.00	25.00	35.00	45.00	55.00	64.00
<u>ONE & ONE-HALF YARD CONTS.</u>						
one 1½ yard container	28.50	42.00	63.00	81.50	98.50	117.50
two 1½ yard containers	43.00	63.00	94.50	122.50	148.00	176.00
each additional container	27.00	38.00	56.50	80.50	87.00	104.00
<u>TWO-YARD CONTAINERS</u>						
one 2-yard container	34.00	56.75	82.75	106.50	129.50	152.00
two 2-yard containers	65.50	106.50	154.50	195.75	238.75	280.50
Each additional container	29.75	49.00	68.50	87.50	106.50	125.00

Bulk trash pickup rates

Per hour charge/pickup truck (1 man)...\$20.50
Per hour charge/packer truck (1 man)... 24.00
Per hour charge additional man..... 11.00

One flight of stairs 25% additional
Two flights of stairs 50% additional
Up or Down

Exhibit "A"

AMENDED

7-28-85

SEE ORD.

NO. 95

OML

HORNING BROS. SANITARY SERVICE

Rates Effective January 1, 1979

RESIDENTIAL RATES, 1 stop per week service
Standard can not to exceed 32 gallons

1 can.....\$ 3.00 per month
2 cans..... 4.50 per month
Each add'l can..... 1.75 per month

COMMERCIAL RATES, 1 stop per week service
Standard can not to exceed 32 gallons

1 can.....\$ 3.50 per month
2 cans..... 5.00 per month
Each add'l can..... 2.25 per month

COMMERCIAL RATES, 2 stops per week service

1 can.....\$ 6.50 per month
2 cans..... 9.50 per month
Each add'l can..... 4.00 per month

NUMBER OF STOPS PER WEEK & CHARGES PER MONTH

	<u>One</u>	<u>Two</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>	<u>Six</u>
<u>YARD CONTAINERS</u>						
Yard Container	15.00	25.00	37.50	47.00	57.00	67.00
Yard Containers	28.00	47.00	68.00	86.00	105.00	123.50
Additional Container	13.00	21.50	30.00	38.50	47.00	55.00
<u>ONE-HALF YARD CONTS.</u>						
Yard Container	24.50	36.00	54.00	70.00	84.50	101.00
Yard Containers	37.00	54.00	81.00	105.00	127.00	151.00
Additional Container	23.00	32.50	48.50	69.00	74.50	89.00
<u>3/4 CONTAINERS</u>						
Yard Container	29.25	48.75	71.00	91.50	111.00	130.50
Yard Containers	54.50	91.50	132.50	168.00	204.75	240.50
Additional Container	25.50	42.00	58.50	75.00	91.50	107.25

One flight of stairs 25 per cent additional.
Two flights of stairs 50 per cent additional
Up or Down