

Repealed
9/9/52
new ord #28

ORDINANCE NO. 23

AN ORDINANCE REGULATING THE COLLECTION AND DISPOSAL OF GARBAGE WITHIN THE CITY OF BROOKINGS, OREGON, AND GRANTING AN EXCLUSIVE FRANCHISE THEREFOR, DEFINING THE TERMS THEREOF, AND PROVIDING RATES.

The City of Brookings does ordain as follows:

SECTION 1. Under and upon the provisions and conditions in this ordinance contained, there is hereby granted to James Thompson Smith, hereinafter referred to as Collector, the exclusive right, franchise, and privilege of conducting the business of collecting and hauling, over the streets and alleys of the City, garbage, waste matter, and refuse. The words, garbage, waste matter and refuse, are defined to mean and include rubbish, trash, ashes, tin cans, animal and vegetable waste, and any other matter which is unsanitary.

SECTION 2. The right, franchise, and privilege so granted to the collector, shall extend over and throughout the entire incorporated area of the City of Brookings.

SECTION 3. It is hereby adjudged and declared that the public peace, health, safety, and welfare of the City of Brookings, will be best served by the right, franchise, and privilege to collect and haul garbage, waste matter and refuse being exclusively in the collector. Therefore, no other person, firm or corporation shall engage in the business of collecting and/or hauling, over the city's streets and alleys, garbage, waste matter and refuse, and any person, firm or corporation who shall attempt to engage in such business may be enjoined therefrom at the suit of either the City or the Collector. The City may refuse to enjoin any such person, firm or corporation, and any suit or action taken by the collector shall be at his own expense.

SECTION 4. The collector shall, at all times during the life of this franchise, keep and maintain a garbage and refuse dump at a location outside and beyond the limits of the incorporated area of the City of Brookings, the location and maintenance of which dump shall, at all times, meet the approval of the City Council.

SECTION 5. The collector shall use proper and suitable equipment for the hauling and transportation of garbage, waste matter, and refuse. The collector shall use equipment in his handling of garbage, waste matter and refuse which will not permit garbage, waste matter or refuse to drop therefrom upon any of the City streets or alleys, and one of the conditions upon which this franchise, right, and privilege is so granted, is that the collector shall,

at no time, allow any garbage, waste matter or refuse to fall or drop upon the City streets or alleys, or upon any highway or road traveled by his equipment to and from said dump. The collector shall keep all equipment used by him for handling liquids in a clean and sanitary condition at all times. The collector shall, at all times, keep and maintain an adequate amount of equipment to enable him, at all times, to promptly and adequately remove all garbage, waste matter and refuse in the City of Brookings.

SECTION 5. The collector shall, at all times, maintain said dump in accordance with all health and sanitary regulations of either and both the State of Oregon and the City of Brookings.

SECTION 6. The collector shall permit any and all residents of the City of Brookings to use said dump between the hours of 1 o'clock p.m. to 4 o'clock p.m. on Saturday of each week. The collector may make reasonable rules and regulations governing the use of such dump by residents of the City of Brookings, which rules and regulations shall be for the purpose of enabling him to properly care for and operate said dump in compliance with the terms of this ordinance and the health and sanitary rules and regulations of the City of Brookings and the State of Oregon. Said dump shall be clearly signed so as to enable those desiring to use it to be readily advised of its location, and the driveway leading to and from said dump shall be maintained in a suitable condition so as to be safe for vehicular traffic at all times. The collector shall not, at any time or in any way whatsoever, indicate by any means or lead any person, firm, or corporation to believe that said dump or said business is in anyway operated or maintained as an enterprise of the City of Brookings.

SECTION 7. The collector shall, without making any charge therefor, collect and haul to said dump for the City of Brookings, six 32-gallon cans of garbage, waste matter and refuse each week during the life of this franchise.

SECTION 8. The collector shall not refuse to collect and haul to said dump, garbage, waste matter and refuse from any person, firm or corporation desiring such service, and the collector shall, at least once each week, collect and haul to said dump, the garbage, waste matter and refuse of all persons, firms, or corporations desiring such service. The collector shall, in such manner as is convenient to him, divide the incorporated area of the City of Brookings into districts, and he shall apprise all persons desiring his service within any one of such districts as to the day or days of the week on which he will collect and remove their garbage, waste matter and refuse, which day or days shall not be

changed without one week's prior due notice to the persons within said respective districts who use or desire such service. The collector shall, by 5 o'clock p. m. on each day, set for collecting the same, complete the collection of all offensive or wet garbage in the business district. The collector shall, between the hours of 4 o'clock p.m. and 8 o'clock p.m. on all days preceding Sundays and legal holidays, collect all garbage, waste matter and refuse from butcher shops, grocery stores, restaurants, and other places or establishments of business having garbage which may become foul or offensive by being kept over the ensuing Sunday or holiday. The collector shall respond to all calls made upon him for collecting and removing garbage, waste matter, or refuse within twenty-four hours from the time he is so called upon, whether or not the person, firm, or corporation so calling upon him is a regular customer.

SECTION 9. Nothing in this ordinance is to be construed so as to prevent any person, firm, or corporation in the City of Brookings, from hauling his or its own garbage, waste matter, or refuse to said dump and disposing of the same in a lawful manner, nor shall it be construed so as to prevent any person who has been hired or engaged to clean up any premises from hauling garbage, waste matter or refuse to said dump; provided, however, that this section shall not be deemed to authorize any other person than the collector to engage in the business of collecting and transporting garbage, waste matter, and refuse, as that business is contemplated by this ordinance.

SECTION 10. The rates to be charged by the collector to all persons, firms, or corporations for collecting and transporting garbage, waste matter and refuse, shall be reasonable and uniform, shall be based upon consideration of the service rendered, and shall not be in excess of the rates hereinafter set forth without the prior approval of the City as shown by official action of the City Council, taken by a majority of all Council members as distinguished from a majority of a quorum of the Council, at a regular meeting of the Council.

SCHEDULE OF RATES

<u>CLASS</u>	<u>CALLS</u>	<u>RULES TO WHICH RATE IS SUBJECT</u>
Individual residences	Once per week, \$2.00 per month	A. B. C. E.
Special call to residence	\$.75 per call	A. B. E.
Business places	Twice a week \$.50 for one can plus \$.25 for each additional can	A. B. E.

Restaurants

Twice a week \$.50 for
one can plus \$.25 for
each additional can

A. B. E.

Charges
Self-hauling by
resident, et al

Self-hauling \$.50 up to
100 lbs. plus \$.50 for
each additional 100 lbs.
or part thereof, with a
maximum of \$2.50

A "can" as that term is used in this ordinance shall mean any container having a capacity of thirty-two (32) gallons.

SECTION 11. The rates set forth in Section 10 above shall be subject to the following Rules:

A. The rates set forth in Section 10 hereof are the established rates for the services specified in said section 10.

B. When the collector is called upon to haul an unusual amount or kind of garbage, waste matter, and refuse, he may make an additional charge therefor, which charge shall, however, be reasonable in amount. The Council shall entertain, at any of its regular meetings, the complaint of any customer who asserts that the charge assessed by the collector, under this rule, is unreasonable, provided that such customer has filed his complaint in writing, setting forth the reasons therefor, with the City Recorder not less than fifteen (15) days prior to such meeting, and has served a true copy of such complaint upon the collector, not less than ten (10) days prior to such meeting. The collector shall file a written answer to such complaint with the Recorder, at least five (5) days prior to said meeting, and at said meeting the collector and the customer shall each be entitled to be heard for a time not to exceed seven (7) minutes each. A majority of the Council present at such meeting shall determine what is a reasonable charge for the service in question, and the collector and the customer shall be bound thereby.

C. When the collector is called upon to remove garbage, waste matter, and refuse more frequently for any customer than is set out in section 10 hereof, he may make an additional charge therefor, which additional charge shall be reasonable and based upon a consideration of all the circumstances, and the rights and procedure set out in Rule B above shall be applicable thereto.

D. The collector may charge Twenty-Five Cents (\$.25) each for every can over one which he shall haul for any resident customer.

E. The collector may make an additional charge when any can weighs in excess of 100 lbs. or the container is unusually large, cumbersome, or bulky, which additional charge shall be reasonable, and the rights and procedure set forth in Rule B shall be applicable thereto.

SECTION 12. The City shall, at all times, during the life of this franchise, have the right to change, modify, and regulate the rates to be charged by the collector, and the methods used by him in collecting garbage, waste matter, and refuse, as well as the classifications thereof; provided, however, that the City shall make no such change without at least thirty (30) days notice of its intention to make a change, being served on the collector. Said notice may be served upon the collector, either in person or by mailing the same to him at his last known address; provided further that any change so made by the City shall be reasonable and in keeping with the conditions then prevailing.

SECTION 13. By his acceptance of this franchise, the collector shall undertake to render such service and conduct said business in keeping with good health and sanitary standards, and if the collector shall either fail, neglect, or refuse to fulfil any or all of the terms and stipulations in this franchise contained, then the City shall have the right to cancel and terminate this franchise; provided, however, that before the City may so cancel and terminate this franchise, the City shall cause to be served upon the collector a written notice by registered mail, setting forth wherein the collector has failed or neglected or refused to fulfil any or all of the terms and stipulations of this franchise, and setting a time, not less than fifteen (15) days after the mailing of such notice, when the matter will be heard before the City Council. The collector shall file an Answer to such notice with the Recorder not later than five (5) days prior to the time set for such hearing. At any such hearing the collector shall have the right to be present, in person, and to be represented by Council, and to present such witnesses and evidence as may be proper in the premises. The City may also and in like manner, present such evidence as may be proper in the premises. All witnesses shall be heard under oath, and subject to cross examination. The procedure to be followed in such hearing shall, as nearly as practicable, follow that which is ordinarily followed by an administrative body hearing similar matters.

SECTION 14. This franchise shall not be assigned by the collector to any other person without the prior written consent of the City, based upon official action taken by a majority of the Council at one of its regular meetings, or at a special meeting called for that purpose, and not then until the assignee shall have filed with the Recorder his written acceptance and agreement to abide by the terms and provisions hereof.

SECTION 15. In the event that the collector shall, at any time during the life of this franchise, desire to sell his garbage collecting equipment, and shall receive a bona fide written offer to purchase the same for a definite sum of money from a third party, he shall first, offer said equipment to the City upon the same terms and for the same sum of money contained in said third parties written offer, and the City shall have a period of thirty (30) days in which to accept the collector's said offer, and in the event that the City shall fail or refuse to accept the collector's said offer within said thirty (30) days, then the collector may sell said equipment to such third party, but the City's failure or refusal to accept said offer shall not be construed as a consent on its part to an assignment of this franchise to such third party or any other party.

SECTION 16. By his acceptance of this franchise, the collector acknowledges that he is being given the exclusive right to conduct a public service business, and that he will conduct said business to the best interests of the City, his customers, and himself alike.

SECTION 17. The collector shall, within thirty (30) days from the date of his acceptance of this franchise, furnish and file with the City Recorder, a performance bond of a surety company acceptable to the Council, which bond shall be in the amount of One Thousand Dollars (\$1,000.00), and the premium therefor shall be paid by the collector. Said bond shall be kept in full force during the life of this franchise.

SECTION 18. Following its passage by the Council, this ordinance shall become effective on the day that it is accepted by the collector, and it shall remain in force, unless otherwise cancelled and terminated as hereinabove provided, for the period of ten (10) years immediately following said date of acceptance by the collector.