

ORDINANCE NO. 763

AN ORDINANCE AMENDING CHAPTER 12.10 OF THE TROUTDALE MUNICIPAL CODE BY RENUMBERING IT AND REASSIGNING STAFF RESPONSIBILITY FOR SOLID WASTE

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. Chapter 12.10 of the Troutdale Municipal Code, which currently provides for a solid waste program, is located within Title 12, which pertains to Public Works.
2. Responsibility for administration of the solid waste program is being transferred from the Public Works Department to the Community Development Department.
3. The proposed ordinance will renumber Chapter 12.10 as Chapter 8.40 and assign staff responsibility for solid waste to the Community Development Department.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE

Chapter 12.10 of the Troutdale Municipal Code is amended to read as follows:

Chapter 8.40

SOLID WASTE

Sections:

- 8.40.010 Title.
- 8.40.020 Intent and scope.
- 8.40.030 Franchise term.
- 8.40.040 Franchise fee.
- 8.40.050 Franchise agreement.
- 8.40.060 Solid waste rates.
- 8.40.070 Compliance and enforcement.
- 8.40.080 Private right of action.
- 8.40.090 Administration.

8.40.010 Title.

This chapter of the code shall be entitled "solid waste."

8.40.020 Intent and scope.

- A. Pursuant to the statutes of the state of Oregon and the powers granted in the charter of the city, the council declares its intent to insure the safe accumulation, storage, collection, transportation, and disposal or recovery of solid waste in the city.
- B. The council finds, determines and declares the necessity of providing for the city's solid waste needs by the establishment of an exclusive franchise for solid waste collection and transportation services for compensation within a delineated service area.
- C. It is unlawful for any person to provide or offer to provide services for the collection and/or transportation of solid waste for compensation without obtaining a franchise from the city, except for the following wastes:
 - 1. Sewage sludge, septic tank pumpings, cesspool pumpings and the like;
 - 2. Motor vehicles and motor vehicle parts;
 - 3. Construction and demolition debris;
 - 4. Redeemable beverage containers;
 - 5. Wastes that may be repairable or cleanable and are collected by private charitable organizations regularly engaged in such activity;
 - 6. Wastes produced as an incidental part of other business activity such as janitorial services, landscaping services and the like;
 - 7. Wastes that are exempt under ORS 459A.075.

8.40.030 Franchise term.

The exclusive franchise agreement provided for by this chapter shall be for a period specified in the franchise agreement but not to exceed ten years.

8.40.040 Franchise fee.

- A. As compensation for the franchise granted to the franchisee and for the use of city streets, the franchisee shall pay to the city a fee equal to five percent of gross revenues resulting from the solid waste services conducted under this franchise.
- B. In the event that the franchisee shall pay a franchise fee of more than five percent to any city or municipal corporation within the Portland-Metro area during the duration of the franchise agreement, then the franchisee shall inform the city of the same and the city shall have the right to require and receive the same percentage as said other city or municipal corporation, to be effective upon the next rate change following a rate review process.

8.40.050 Franchise agreement.

The city and the franchisee shall enter into a written franchise agreement describing the duties and responsibilities of each party. This agreement shall be authorized by a resolution of the council and may, from time to time, be changed by resolution of the council.

8.40.060 Solid waste rates.

- A. The council, by resolution, shall establish rates which the franchisee may charge for solid waste services and may, from time to time, by resolution

change those rates.

- B. When a new or unusual solid waste service not included in the rate structure approved by the council is requested, the franchisee may establish a reasonable cost for providing such service. However, if such service is provided for more than one month, the franchisee shall notify the community development director in writing of the service provided, the rate established and the basis for the rate.

8.40.070 Compliance and enforcement.

If there is a violation of this chapter, the city may, in addition to other remedies provided by law, file an action in a court of appropriate jurisdiction seeking a civil penalty, recovery of unpaid fees owned, an injunction for abatement, and court costs.

8.40.080 Private right of action.

A private enforcement cause of action is hereby created for any person to bring a civil action alleging violation of this chapter in a state court of appropriate jurisdiction, seeking appropriate judicial remedies, including injunctive relief and damages. A copy of any such suit that is filed shall be mailed or delivered to the city administrator's office when it is filed. Any person who prevails in an action under this section, pertaining to private right of action, shall be entitled to his, her or its reasonable costs and attorney's fees, including those on appeal.

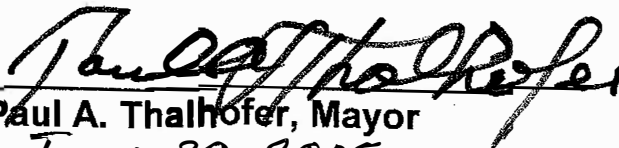
8.40.090 Administration.

The community development director shall be responsible for the administration of this chapter.

YEAS: 7

NAYS: 0

ABSTAINED: 0



Paul A. Thalhofer, Mayor
June 29, 2005

Date



Debbie Stickney, City Recorder

Adopted: June 28, 2005