

ORDINANCE NO. 835

AN ORDINANCE AMENDING CHAPTER 8.40 OF THE TROUTDALE MUNICIPAL CODE AND REASSIGNING STAFF RESPONSIBILITY FOR SOLID WASTE.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. In 2005, the Solid Waste section of the municipal code was renumbered from Chapter 12.10 to Chapter 8.40 and staff responsibility was reassigned.
2. Responsibility for administration of the solid waste program is being transferred from the Community Development Department to the City Manager, or his/her designee.
3. The proposed ordinance adds definitions pertinent to this chapter that were not moved when this chapter was renumbered.
4. The proposed ordinance adds language required by the franchise agreement with Waste Management related to the protection of containers.
5. The proposed ordinance revises the franchise term to allow for periodic extension to be approved by the Council without need to renegotiate the entire franchise agreement.

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

Chapter 8.40 of the Troutdale Municipal Code, Solid Waste, is hereby amended to read as follows:

Chapter 8.40

SOLID WASTE

Sections:

- 8.40.010 Title.**
- 8.40.015 Definitions.**
- 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".

8.40.015 Definitions.

"City" means City of Troutdale.

"Collection or collection service" means all or any part of the activities involved in collecting and transporting solid waste, recyclable materials or yard debris to an appropriate disposal or recycling facility.

"Collection franchise" means a franchise, certificate, contract, or license issued by the City authorizing a person to provide collection service and to use City streets.

"Construction and demolition debris" means used or discarded construction materials removed from a premise during construction, demolition or renovation of a structure where a city permit has been issued.

"Council" means the City of Council of the City of Troutdale.

"Customer" means those generators of solid waste, recyclable materials, or yard debris to whom a franchisee provides collection service.

"Franchisee" means the person granted the franchise under this ordinance, or a subcontractor to such person.

"Generator" means a person who last uses a material and makes it available for disposal or recycling.

"Hazardous waste" means a waste as defined in ORS 466.05 (or any successor thereto) and/or solid waste that is required to be accompanied by a written manifest or shipping document describing the waste as "hazardous waste" or "dangerous waste", pursuant to any state or federal law, including but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et Seq., and the Hazardous Waste Management Act, Chapter 466 ORS as amended, and the regulations promulgated thereunder. Hazardous waste shall not include incidental hazardous waste or small quantity generator waste which is commingled with solid waste.

“Household hazardous waste” means any discarded, useless or unwanted chemical, material, substance, or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households. Household hazardous waste includes, but is not limited to, some cleaners, solvents, pesticides, automotive, and paint products.

“Infectious waste” means biological waste, culture and stocks, pathological wastes, and sharps as defined in ORS 459.386.

“Oregon Revised Statutes (ORS)” are the codified body of statutory laws governing the State of Oregon.

“Person” means an individual, partnership, association, cooperative, corporation, trust, firm, estate, or other public or private legal entity.

“Processing” means an operations where collected, source-separated recyclable materials are sorted, graded, cleaned, identified, or otherwise prepared for end use markets.

“Rates” means the amounts of compensation paid for various levels of solid waste and recycling service.

“Recyclable material, recyclables” means any material that has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and is separated from Solid Waste by the Generator or at a Material Recovery Facility.

“Recycling” means the process of collecting, sorting, cleansing, treating, or reconstituting recyclable materials which would otherwise be disposed of in a landfill and returning them to the economy in the form of raw materials for new, reused, or reconstituted products.

“Resource recovery” means the process of obtaining useful material or energy resources from solid waste and includes energy recovery, material recovery, recycling, and reuse.

“Service” means collection, transportation, storage or disposal of, or resource recovery from, solid waste, or recyclable material, or both.

“Solid waste” means all useless or discarded putrescible and non-putrescible materials, including but not limited to garbage; rubbish; refuse; ashes; wastepaper and cardboard; commercial, industrial, demolition and construction materials; sewage sludge; septic tank and cesspool pumping or other sludge; discarded or abandoned vehicles or parts thereof; discarded home appliances; manure, vegetable or animal solid or semisolid materials, dead animals, infectious waste as defined in ORS 459.386, special waste and other wastes; but the terms does not include:

1. Materials defined as principal recyclable materials in OAR 340-90-070, and any others designated by the City, which have been correctly placed for collection or taken to a Depot by the generator;
2. Hazardous wastes as defined in ORS 466.005; and
3. 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 (OAR 340-90-010(36)).

“Solid waste collection service or service” means the collection, transportation, storage or disposal of or resource recovery of solid wastes, from residential, multifamily, commercial, and industrial generators, as required by City regulations, and administrative rules; and the collection, transportation and processing of recyclable materials and yard debris from residential and commercial generators.

“Solid waste management” means the prevention or reduction of solid waste; storage, collection, transportation, treatment, utilization, processing, and final disposal of solid waste; or resource recovery from solid waste; and facilities necessary or convenient to such activities.

“Source separated recyclable materials” means any recyclable materials separated from the solid waste stream prior to collection.

“Waste” means material that is no longer usable or wanted by the source generator of the material which is to be utilized or disposed of by another person. For the purposes of this paragraph, “utilized” means the productive use of wastes through recycling, reuse, salvage, resource recovery, energy recovery, or landfilling for reclamation, habilitation, rehabilitation of land.

“Yard debris” means compostable materials including grass clippings, leaves, pruning and similar vegetative materials; but does not include sod, stumps, or similar bulky wood materials, rocks, or dirt.

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 and recyclable material in the city.
- B. The council finds, determines and declares the necessity of providing for the city’s solid waste and recycling needs by the establishment of an exclusive franchise for solid waste and recycling collection and transportation services for compensation within a delineated service area.

- C. It is unlawful for any person to provide, offer to provide, or advertise for services for the collection and/or transportation of solid waste and recycling for compensation without obtaining a franchise from the city, except for the following wastes:
1. Sewage sludge, septic tank pumpings, cesspool pumping and the like;
 2. Motor vehicles and motor vehicle parts;
 3. Construction and demolition debris;
 4. Source Separated Materials for Resource Recovery collected by charitable, civic or benevolent organizations;
 5. Wastes produced as an incidental part of other business activity such as janitorial services, landscaping services and the like;
 6. Wastes that are exempt under ORS 459A.075.
- D. It is unlawful for any person, other than a franchisee or generator, to interfere with any solid waste container, take recyclable material or any other solid waste set out to be collected from such container, or to remove any such container or its contents, without first obtaining consent from the franchisee or the generator.

8.40.030 Franchise term.

- A. The exclusive franchise agreement provided for by this chapter shall be for a period specified in the franchise agreement but not to exceed eight years.
- B. Every four years, Council will review the franchise agreement and may elect to extend the franchise for an additional four years, thereby returning the remainder of the franchise term to eight years.
- C. Council has the authority to choose not to extend the franchise for any reason. If the Council decides not to extend the franchise, it shall, prior to the expiration of the franchise select a hauler through an alternative selection process.

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 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, 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 city manager or his/her designee in writing of the service provided, the rate proposed and the basis for the rate. If the city manager or his/her designee finds the rate for providing such service unreasonable, rates shall be approved by the council.

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 owed, 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 suit that is filed shall be mailed or delivered to the city manager'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 city manager or his/her designee shall be responsible for the administration of this chapter.

YEAS: 7
NAYS: 0
ABSTAINED: 0



Doug Daoust, Mayor

11/25/15

Date



Sarah Skroch, City Recorder

Adopted: November 24, 2015