

City of Sherwood, Oregon
Ordinance 2004-010

AN ORDINANCE REPELAING AMENDING THE SHERWOOD MUNICIPAL CODE
CHAPTER 8.20, "SOLID WASTE MANAGEMENT"

WHEREAS, solid waste collection is regulated in the City by a franchise granted to Pride Disposal, Inc., and the terms and conditions of the franchise are set by Ordinance No. 89-899, codified in the Sherwood Municipal Code at Chapter 8.20 (Solid Waste Management); and

WHEREAS, the City has recently annexed territory in Washington County that is currently serviced by Newberg Garbage Service, a solid waste management company; and

WHEREAS, ORS 459.085(3) allows a county-franchised waste collector to continue to serve territory annexed by a city; and

WHEREAS, Newberg Garbage Service has requested a City franchise to provide solid waste management services to the recently-annexed territories within the City that it has previously serviced under a Washington County-granted franchise; and

WHEREAS, the City has authority over rights-of-way within its boundaries under its Charter and ORS 221.410; and

WHEREAS, the City manages users of its rights-of-way for the privilege of such use; and

WHEREAS, the City believes it is in the public interest of its residents to grant a solid waste franchise to Newberg Garbage Service; and

WHEREAS, the rates for solid waste collection services are set forth in Chapter 8.20.080 in Table 8.20.080; and

WHEREAS, it is administratively more efficient and more accessible to set the solid waste collection rates by resolution;

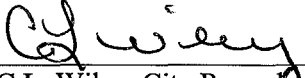
NOW THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1 Sections 8.20.040, 8.20.45, 8.20.060, 8.20.070, 8.20.080, and 8.20.110 are amended as reflected in Exhibit A.

Duly passed by the City Council this 22nd day of June 2004.

Approved by the Mayor this 22nd day of June, 2004.

Attest:


C.L. Wiley, City Recorder


Mark Cottle, Mayor

	AYE	NAY
Weislogel	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Heironimus	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Durrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mays	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fox	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cottle	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Exhibit A
Ordinance No. 2004 - 010

8.20.040 Franchises.

A. Subject to the provisions of this chapter, other city ordinances, and the City Charter, and any amendments to these documents, there is granted to the following persons a franchise the Council may by resolution grant exclusive or non-exclusive franchises, with or without competitive bidding, to provide service over and upon the streets and of a franchise area of the city within the corporate city limits. Nonperformance of the terms and conditions of the franchise agreement may result in financial and operating penalties to the franchisee, and may result in the loss or limitation of the franchisee's right to provide services.

B. ~~The franchisee is:~~

1. ~~Pride Disposal, Inc., Michael L. Leichner, president, Sherwood, Oregon.~~

~~CB. Where any area is annexed to the city of Sherwood and the area had been franchised by Washington County for solid waste collection service prior to annexation, the county franchise and franchise holder shall be recognized for that particular area subject to the provisions of ORS 459.085(3); otherwise, if the area was franchised by Washington County to the a city franchisee, as specified in subsection B of this section, that area shall be added by resolution the city council to the a city franchise area, by amendment to this chapter. (Ord. 89-899 § 4)~~

8.20.045 Franchise—Application, application approval, and statement of ownership.

A. Applicants for a solid waste management franchise under this chapter must file with the city manager an application in a format approved by the city manager which shall at least provide the following information:

1. Full name;

2. Permanent home and business address;

3. Trade and firm name;

4. If a joint venture, a partnership or limited partnership, the names of all partners and of their percentage of participation and their permanent addresses; if a corporation, the names and permanent addresses of all the officers;

5. Evidence showing that:

a. an applicant for a solid waste collection and transportation franchise has arranged for disposal of all solid waste collected or transported to an authorized disposal site where it may legally be accepted and disposed of, and the location of that disposal site; or,

b. an applicant for a curbside recycling collection and transportation franchise has arranged for the sanitary storage and recycling of the collected materials and proper disposal of any nonrecyclable residue;

6. Facts showing that the applicant is qualified to render efficient solid waste or curbside recyclables collection and transportation service;

7. Facts showing that the applicant has adequate experience in the collection and transportation of solid waste or curbside recyclables;

8. A description of all vehicles and equipment used or intended to be used by the franchisee or its subcontractors, including vehicle type, license number, age and condition;

9. A statement certifying that the vehicles and equipment identified are in compliance with the requirements of this chapter, the state minimum standards for solid waste handling and disposal, applicable provisions of the vehicle code, and other legal requirements;

10. Facts demonstrating that the applicant owns or has access to suitable facilities for the storage, maintenance and cleaning of vehicles and equipment;

11. Evidence showing that the issuance of a franchise is in the public interest; and

12. Such other facts or information as the city manager may require.

B. Upon receipt of a completed application for a franchise, the city manager will determine if the applicant meets all the requirements of this chapter and all applicable state and federal laws and regulations.

1. Decision. A decision to grant or not to grant the franchise will be made by the city council within 120 days from the receipt of a complete application.

2. Acceptance. By signing the designated franchise acceptance, the applicant accepts all of the terms and conditions specified in the franchise.

3. Appeal. If the city council determines that a franchise will not be granted or if the decision to grant or not grant the franchise is not made within 120 days, the applicant has the right to a hearing before the city council. A request for a hearing must be made by the applicant in writing to the city recorder within 15 calendar days after receipt of notice of denial or within 15 calendar days after the 120-day has passed. Upon receipt of the written request for hearing, the city recorder will set the matter for hearing on a date not more than 60 days after the receipt of the written request. The city recorder will give written notice of the time, date and place of hearing to the applicant and the public. At the hearing, the applicant has the burden of proof to show facts demonstrating that the applicant meets the requirements of this chapter and applicable state and federal laws and regulations, and that the granting of the franchise is required by the public safety, health, welfare, convenience or necessity. The city council will make its decision within 15 days after the close of the hearing on appeal. The decision of the city council is final.

C. Every franchisee must file a statement of ownership with the city manager by July 1st of each year and verify it as true and correct under the penalty of perjury. This statement must be made in a form acceptable to the city manager.

8.20.060 Franchise fees.

B. Willful misrepresentation of gross cash receipts by the franchisee shall constitute cause for immediate revocation of this franchise, pursuant to Section 8.20.090 of this chapter.

8.20.070 Franchisee responsibility.

C. Within fifteen (15) days after the effective date of the ordinance codified in this chapter, of adoption of the resolution, file with the city recorder a written acceptance of the franchise;

G. Provide for the regular collection and disposal of solid waste from all city facilities, city parks, city sidewalk containers, and city activity areas ~~including the Sherwood Senior Community Center~~ and at other locations to be designated by the city that are within a franchise area at no cost to the city;

N. Maintain a record of customer complaints and of the franchisee's response to each complaint. Records pertaining to customer complaints must be made available to the city manager upon the city manager's written request. The franchisee shall retain all records for a minimum of three years.

8.20.080

Rates.

~~A. Subject to any amendments made by the city council pursuant to this section and this chapter, rates for services are enumerated in Table 8.20.080 of this chapter.~~

A. The Council will by resolution set rates for all solid waste collection services provided by franchisees.

D. Rates to be charged by the franchisee under this chapter shall be set by the city council by ~~ordinance~~ resolution at such times as deemed necessary by the council provided, however, that rates may not be amended more than once every ~~twelve~~ (12) months, except for instances where landfill disposal rates have been increased by the metropolitan service district. The council may consider rate amendments to account for increased operating costs directly attributable to landfill disposal costs at any time, or in any frequency. The franchisee shall provide the city with ~~thirty~~ (30) days written notice of any request to amend rates. In amending the rate schedule, the council shall give due consideration to the purposes of this chapter and the direct and indirect costs to the franchisee of doing business, as may be justified and quantified by the franchisee. The franchisee shall be provided ~~thirty~~ (30) days prior written notice with accompanying justification for a city initiated amendment to the service rate schedule .

E. Any request for a rate adjustment shall conform to the following process:

1. Notwithstanding any request for an amendment to the rate schedule, the franchisee shall annually supply a report of current income and expense for the current calendar year for services provided within the city, ~~together with~~ Any request for a rate adjustment must include the projected income and expense for the balance of the year for such service and ~~shall also enumerate existing and/or proposed rates and justify justification for any proposed rate adjustments, if any.~~

Table 8.20.080 is deleted in its entirety.

8.20.110 Suspension of service.

A. Street or road access is blocked and there is no alternate route, provided that the franchisee shall restore service not later than ~~twenty-four~~ (24) hours after street or road access is opened.

C. A customer has not paid for provided service after a regular billing and after a written delinquency notice, which notice shall not be sent less than ~~fifteen~~ (15) days after the date of mailing of the regular billing.

D. Other than for non-payment for provided service, ~~Ninety~~ (90) days written notice is given to the city council and to affected customers and written approval is obtained from the city council.