

ORDINANCE NO. 38

AN ORDINANCE REGULATING THE COLLECTION AND DISPOSAL OF REFUSE, PROVIDING FOR THE GRANTING OF AN EXCLUSIVE REFUSE COLLECTION FRANCHISE, PROVIDING PENALTIES DECLARING CERTAIN ACTS UNLAWFUL AND DECLARING AN EMERGENCY.

DUNES CITY DOES ORDAIN AS FOLLOWS:

Section 1. For the purposes of this ordinance the following words shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular number include the plural number:

- (a) "Ashes" is the residue from the burning of wood or other combustible materials.
- (b) "Garbage" is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (c) "Refuse" is all putrescible and nonputrescible solid waste (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals, and abandoned automobiles.
- (d) "Rubbish" is nonputrescible solid waste (excluding ashes) consisting of both combustible and noncombustible wastes such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.
- (e) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- (f) "Collector" means the person authorized and designated by Dunes City to collect, handle, transport and dispose of refuse.

Section 2. All garbage, putrescible refuse and dead animals within Dunes City shall be stored in containers which are watertight, equipped with tight-fitting covers, suitable handles and which are maintained in a clean, sanitary manner and good state of repair. No such garbage, putrescible refuse or dead animals shall be accumulated and remain undisposed of within Dunes City for a longer period than seven days.

Section 3. No person shall place or cause to be placed any refuse in any street, alley or other public place, or upon any private property, whether owned by such person or not, within Dunes City, except it be in proper containers for collection, or under express approval granted by the Council. Nor shall any person throw or deposit or cause to be thrown or deposited any refuse in any stream or other body of water.

Section 4. No person shall transport or convey refuse upon or over any street, alley or public way within Dunes City unless such refuse is in a covered water-tight container, provided, however,

nonputrescible, innocuous substances may be conveyed upon or over such streets, alleys or public ways if adequate provision is made against sifting, spilling or littering by a cover or by lashing.

Section 5. No person shall permit refuse to become spread, scattered, lodged or left upon any street in Dunes City while such refuse is being transported or conveyed upon or over a street, alley or public way within Dunes City.

Section 6. It shall be unlawful for any person to collect or haul refuse in Dunes City for hire unless such person shall have first received a franchise therefor from Dunes City for such service.

Section 7. Dunes City shall have the right to grant an exclusive franchise for the collection and removal of refuse from Dunes City for a term not to exceed ten years. In granting such a franchise, the City Council shall take into account the following:

- (a) The knowledge on the part of the applicant of the refuse collection removal and disposal business;
- (b) The ability of the applicant to furnish all required and necessary equipment and personnel required in the conduct of such business;
- (c) The financial responsibility of the applicant;
- (d) The capacity of the applicant to indemnify the City and its inhabitants against a failure on his part to fulfill the terms of the franchise or against any injuries occurring to the City or any of its inhabitants in the performance of such franchise;
- (e) The prior experience of the applicant in the operation of a refuse collection removal and disposal business;

If, in the judgment of the Council, more than one applicant qualifies for the franchise on the basis of the foregoing considerations, the Council shall grant the franchise to the applicant offering the most favorable financial return to Dunes City in consideration of its grant to such person of such franchise.

Section 8. The franchise holder shall make its services available to all of the inhabitants of the City without discrimination as to cost, frequency of service, or type of service, except, that the holder of such franchise shall have the right to make reasonable rules and regulations relating to the service performed by the franchise holder, subject to the approval of the Council.

Section 9. The franchise holder may make reasonable charges for refuse collection service, which charges shall be subject to the approval of the City Council. The rates proposed to be charged by a franchise applicant shall be specified in his application. The rates may be changed during the term of the franchise if approved by the City Council, but not otherwise.

The rates established by the franchise holder, and approved by the City Council, shall be and remain on file at the City Recorder's office for public inspection during the entire term

of the franchise.

Section 10. The franchise holder shall acquire and maintain public liability insurance with an insurance company acceptable to the City Council which will cover his business operation including each vehicle operated by him as follows:

For bodily injury-----not less than \$50,000.00
for one person, nor less than \$250,000.00 for each
accident.

For property damage-----not less than \$50,000.00
damage to property of third persons including the
property of Dunes City .

Any franchise granted under this ordinance shall be conditioned upon the franchise holder's agreement to indemnify and save Dunes City, its Council, Mayor and employees harmless against any liability or damage which may arise or occur from any injury to persons or property as a result of the franchise holder's operation of such refuse collection removal and disposal business.

Section 11. Every vehicle used by a franchise holder in the collection removal and disposal of refuse within Dunes City shall be of a type approved by the City Council. When such a vehicle becomes unsuitable for the purpose for which it was intended by reason of its becoming unsafe, dilapidated, unsightly or obsolete, the City Council may order the franchise holder to replace such vehicle within a reasonable time. All vehicles used in the refuse collection removal and disposal business shall be kept at all times in good and safe operating condition, and in a clean and sanitary condition. If any vehicle used by the franchise holder is not being maintained in a reasonable clean and sanitary condition, or if it is not being maintained in a good and safe operating condition, the City Council may order the vehicle removed from service until the objection stated by the City Council has been eliminated.

Section 12. The franchise holder shall conduct its business at all times in conformity with the laws of the State of Oregon, the rules of the State Board of Health, and all other public authorities having regulatory powers relating to health and sanitation.

Section 13. Upon order of the City Council, the City Recorder shall notify the franchise holder of any violation or violations of the terms of his franchise or this ordinance, particularly specifying the violation, and in the event the franchise holder has not remedied such violation within 15 days thereafter, the City Council may at its option terminate the franchise and any rights and privileges of the franchise holder arising thereunder.

Section 14. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed \$100.00 or imprisoned in the City Jail not to exceed 50 days, or by both such fine and imprisonment. Every day a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Franchise holders shall be subject to the penalties provided herein for the violation of the provisions of this ordinance.

Section 15. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 16. In as much as it is of immediate necessity to regulate the disposal of solid waste within the City for the peace, health, and safety of the people of Dunes City, and that this ordinance should become effective immediately, now therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

PASSED this 7 day of August, 1972 by the following vote, aye 3 naye 0

Approved and signed this 7 day of August 1972.

DUNES CITY

By Wm F. Riesenhuber
Mayor

ATTEST:

Donis Cokeram
City Recorder

RESOLUTION NO. 2-14-80

A RESOLUTION AMENDING REFUSE COLLECTION FRANCHISE
SERVICE FEE CHARGE

WHEREAS, on the 11th day of August, 1977, a Refuse Collection Franchise was adopted by the City of Dunes City; and

WHEREAS, the terms of the contract stipulated "The rates the Contractor shall charge for Refuse Collection Service within the City shall not exceed the following except by approval of the City Council of the City" (Section 5); and


WHEREAS, the City Council, having duly studied the Contractor's request for raise in his service rate charges, and finding the increases requested reasonable; now, therefore

BE IT RESOLVED that the City Council of Dunes City hereby adopts this Resolution approving the amendment of Refuse Collection Service rates as follows:

One Stop a week service:

- (a) Not to exceed one 32 gallon can - \$4.55/mo.
- (b) Not to exceed two 32 gallon cans - 7.00/mo.
- (c) Extras, per pick up 1.00

DATED this 14th day of February, 1980.


Shirley M. Merz,
Mayor

ATTEST:


Gene L. Chase
City Recorder

RESOLUTION NO. 8-11-77

A RESOLUTION GRANTING A REFUSE COLLECTION FRANCHISE

WHEREAS, on the 7th day of August, 1972, a Refuse Collection Franchise was adopted by Resolution of the Common Council of the City of Dunes City, and,

WHEREAS, said Resolution expires on the 31st day of August, 1977, and,


WHEREAS, the City and Siuslaw Sanitary Service, Inc. have agreed upon the terms of a new Franchise for Refuse Collection and have duly executed same,

NOW, THEREFORE, be it resolved that the City adopts as the Refuse Collection Franchise for the City of Dunes City the Refuse Collection Franchise attached hereto.


DONE this 11th day of August, 1977.

CITY OF DUNES CITY

by:


Robert Duane Petersdorf
Mayor of the City of Dunes City

ATTEST:


Pat Barber, City Recorder

Amends ORD. #38

ORDINANCE NO. 87

An Ordinance of the City of Dunes City amending Ordinance No. 38, which deals with disposal of solid waste, providing for the issuance, conditions and revocations of licenses, and granting exclusive franchises for the collection of solid waste, and providing penalties and declaring certain acts unlawful.

WHEREAS, it has come to the attention of the City of Dunes City that it has previously granted an exclusive franchise for the collection of solid waste to a franchisee, via Ordinance 38, and an extension of that Ordinance by Resolution; and

WHEREAS, it has come to the attention of the City of Dunes City that Measure No. 51 was recently passed by the voters of Dunes City, repealing Ordinance No. 38, and substituting in lieu thereof a licensing system of regulating persons who wish to collect solid waste; and

WHEREAS, it has come to the attention of Dunes City that should a party apply for a license, and the applicant be qualified, the City would face the situation of having to either refuse the license and thereby be sued for discriminatory practices, or grant the license, and thereby be sued for breaching the exclusive franchise agreement; and

WHEREAS, the principal proponent of Ordinance No. 87, Mr. Loren Parker, has acknowledged the City's difficulty, and indicated that he would agree to defer the implementation of Ordinance No. 87 until the exclusive franchise holder's franchise expires, that event occurring on or about the 31st day of August, 1987; and

THEREFORE the City does ordain as follows:

Section 1 - Deferring Implementation of Ordinance No. 87
The City hereby defers the implementation of Ordinance No. 87 until the 31st day of August, 1987.

Section 2 - A Re-enactment of Ordinance No. 38
The City hereby adopts and re-enacts Ordinance No. 38, in its entirety, for the period of time from the 13th day of December, 1984, until the 31st day of August, 1987. Thereafter, unless there be further action by the City Council or the citizens of Dunes City through initiative and referendum, Ordinance No. 38 shall expire, be null and void, and of no further effect.

Section 3 - Resolving Conflicts Between Ordinance No. 38 and Ordinance 87

In the event there are any conflicts between Ordinance No. 38 and Ordinance 87, the terms and provisions contained within Ordinance No. 38 shall, by the terms of this Ordinance, supercede the terms of Ordinance No. 87 between the date this Ordinance is adopted, the 13th day of December, 1984. During the above-mentioned timeframe, in the event of conflict, the City shall

resolve issues dealing with solid waste disposal as though Ordinance No. 87 had not been adopted. Thereafter, any conflict between Ordinance No. 87 and Ordinance No. 38 shall be resolved by disregarding the conflicting terms in Ordinance No. 38, and proceeding with the terms and provisions provided in Ordinance No. 38.

The Council having declared an emergency does hereby enact this ordinance immediately.

Passed by the City Council of Dunes City, Lane County, Oregon, this 13th day of December, 1984, by the following vote:

Aye 5 Naye 0 Absent 2

APPROVED BY THE MAYOR THIS 13th
DAY OF DECEMBER, 1984.



ROBERT PETERSDORF, Mayor
Dunes City, Oregon

ATTEST:



BETTY STOCKING, City Recorder

Amends #38

Amends ORD. #38

ORDINANCE NO. 107

Re Sold
11

AN ORDINANCE DEFERRING THE EFFECTIVE DATE OF ORDINANCE NO. 88; CONTINUING THE EFFECTIVENESS OF ORDINANCE NO. 38; RESOLVING CONFLICTS BETWEEN ORDINANCES NO. 88 AND 38; AMENDING ORDINANCE NO. 38; REPEALING ORDINANCE NO. 87; AND DECLARING AN EMERGENCY.

Dunes City ordains as follows:

Section 1. Deferring Effective Date of Ordinance No. 88. Ordinance No. 88, enacted by the people of Dunes City as city measure No. 51, November 6, 1984, shall become effective on August 31, 1987.

Section 2. Ordinance No. 38 Continued. Ordinance No. 38, originally enacted August 7, 1972 and repealed by Ordinance No. 88, is reenacted and shall remain effective through August 30, 1987. Unless there is further action by the council or citizens to extend Ordinance No. 38, it shall have no further effect after that date. A copy of Ordinance No. 38 is attached as exhibit A.

Section 3. Conflicts Between Ordinance No. 38 and Ordinance No. 88. The terms of Ordinance No. 38 shall supersede conflicting provisions in Ordinance No. 88 until August 31, 1987.

Section 4. Amendment of Ordinance No. 38.

(1) Section 12 of Ordinance No. 38 is amended to change the reference from the "State Board of Health" to the "State Health Division".

(2) Section 14 of Ordinance No. 38 is amended to read as follows:

"A violation of a provision of this ordinance is punishable by a fine not to exceed \$100. Each day that a violation is committed or permitted to continue constitutes a separate violation. Franchise holders are subject to the penalties provided herein for the violation of the provisions of this ordinance."

Section 5. Repeal. Ordinance No. 87, enacted December 13, 1984, is repealed.

Section 6. Severability. If any section or subsection of this ordinance is held invalid or unconstitutional, the validity or other sections or subsections shall not be affected.


Section 7. Emergency. An emergency is declared to exist, and this ordinance is of immediate necessity to regulate the disposal of solid waste in the city in order

to insure the peace, health and safety of the city. This ordinance shall be in full force and effect immediately after its passage and approval by the mayor.

Passed by the City Council of Dunes City, Lane County, Oregon, this 11th day of December, 1986, by the following vote:

Aye 6 Nay 0 Absent 1

Approved by the Mayor this 11th
day of December, 1986.


JAMES E. BAUMEISTER, Mayor
Dunes City, Oregon

ATTEST:


BETTY STOCKING, City Recorder