

ORDINANCE NO. 236

AN ORDINANCE TO AMEND CHAPTER 50 WITHIN THE DUNES CITY CODE OF ORDINANCES ENTITLED "SOLID WASTE"; MOVING THE PROVISIONS THEREOF TO TITLE XII, BUSINESS LICENSES, AS NEW CHAPTER 121; RENAMING THE PROVISIONS SO AS TO BE ENTITLED "SOLID WASTE COLLECTION LICENSE"; REPEALING ORDINANCE NUMBERS 88, 107 AND 119, AND REPEALING RESOLUTION NUMBER 7-9-87A; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, on November 6, 1984, during the General Election, a majority of Dunes City citizens passed Ballot Measure No. 51/Ordinance No. 88 titled "An Ordinance Creating Multi-Licenses Instead of Exclusive Refuse Franchise"; and

WHEREAS, on November 23, 1984, the General Election of November 6, 1984 was certified that the votes recorded correctly summarize the votes cast for Ballot Measure No. 51/Ordinance No. 88 titled "An Ordinance Creating Multi-License Instead of Exclusive Refuse Franchise"; and

WHEREAS, on December 11, 1986, the City Council of Dunes City adopted Ordinance No. 107 entitled "An Ordinance Deferring the Effective Date of Ordinance No. 88 Regarding Solid Waste; Continuing the Effectiveness of Ordinance No. 38; Resolving Conflicts Between Ordinance No. 88 and 38; Amending Ordinance No. 38; Repealing Ordinance No. 87; and Declaring an Emergency"; and

WHEREAS, on July 9, 1987, the City Council of Dunes City adopted Ordinance No. 119, entitled "An Ordinance Amending Ordinance 88 of the City's Solid Waste Licensing and Management Ordinance and Declaring an Emergency" that repealed both Ordinance No. 38 and Ordinance No. 87; and

WHEREAS, the license fees collected for the operation of a solid waste collection service has not been raised since 1987, a period of 25 years; and

WHEREAS, likewise, the insurance and bond requirements have not been raised since 1987; and

WHEREAS, since costs and expenses have increased over time, Dunes City and its residents may be at risk if the insurance and bond limits are not raised to protect them in the event of loss; and

WHEREAS, since Dunes City's costs and expenses of implementing the program established under Chapter 50 have increased over time, Dunes City should increase the annual license fee to cover its expenses in implementing and administering this Ordinance; and

WHEREAS, protecting its roadways from damage is of concern to Dunes City and its residents; and

WHEREAS, protecting water resources is of major concern to Dunes City residents; and

WHEREAS, it is in the best interests of the residents of Dunes City to ensure solid waste collection services vehicles are maintained in good working order, with no leaks of materials that may infiltrate local lakes, streams and waterways, and operated in a manner so as to limit damage to local roadways; and

WHEREAS, the title of the section as “Solid Waste” is easily misconstrued and renaming the section to “Solid Waste Collection License” provides clarity; and

WHEREAS, other Dunes City business license requirements are found in Chapter XII, entitled “Business Regulations” and moving the Solid Waste Collection License provisions to that Title promotes consistency in the Code; and

WHEREAS, no exceptions to statewide planning goals are proposed; and

WHEREAS, no exceptions to applicable Dunes City Comprehensive Plan policies are proposed; and

WHEREAS, notice of these proposed changes to the Dunes City Code were mailed to all currently licensed solid waste disposal service businesses on Thursday, June 2, 2016, Seven (7) days prior to the first hearing, which was publically announced; and

WHEREAS, the City Council is ready to consider adoption of these amendments to the Dunes City Code.

NOW, THEREFORE, THE CITY OF DUNES CITY ORDAINS AS FOLLOWS:

Section 1. Amendment to Chapter 50 within the Dunes City Code of Ordinances entitled “Solid Waste.”

Title V, Public Works, Chapter 50, entitled “Solid Waste,” of the Dunes City Code of Ordinances is amended by moving the language to Title XII, Chapter 121, and naming the Chapter “Solid Waste Collection License”, and amending the provisions to read as found in Exhibit A. attached hereto and included by reference herein.

Section 2. Administrative Fees.

The City Council may, by resolution, impose fees to cover all of the expense of implementing and administering this Ordinance.

Section 3. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is judicially declared to be invalid, unenforceable, and/or void by a court of competent jurisdiction, such decision will not have the effect of invalidating or voiding the remainder of this Ordinance, and the part(s) of this Ordinance so held to be invalid, unenforceable, and/or void will be deemed stricken, and the remainder of this Ordinance will have the same force and effect as if such stricken part(s) had never been included.

Section 4. Repeal. The repeal of Ordinances 88, 107, and 119 and Resolution 7-9-87A will not affect any action occurring before the repeal takes effect. Ordinances 88, 107, and 119 and Resolution 7-9-87A are hereby repealed.

Passed at the first reading in regular meeting of the City Council of Dunes City, Oregon, on this 9th day of June, 2 016.

Ayes: 3 Nays: 0 Abstain: 0 Absent: 3 Vacant 0

Passed at the second reading and placed on final passage, and adopted by the City Council of Dunes City, Oregon, on this 14th day of July, 2 016.

Ayes: 5 Nays: 0 Abstain: 0 Absent: 1 Vacant 0

ADOPTED BY THE DUNES CITY COUNCIL, THIS 14th DAY OF July, 2 016.

Rebecca Ruede, Mayor ATTEST:
Rebecca Ruede, Mayor

Jamie Mills
Jamie Mills, City Recorder/Administrator

EXHIBIT A.
TITLE XII – BUSINESS LICENSES
CHAPTER 121
SOLID WASTE COLLECTION LICENSE

Sections:

§121.01	Definitions
§121.02	License required; Exemptions.
§121.03	License application and requirements
§121.04	Insurance
§121.05	License issuance
§121.06	License term; fees; license transferability
§121.07	License suspension and revocation
§121.08	Appeal of license decision
§121.09	Inspections
§121.10	Service requirements
§121.11	Rates and payment
§121.12 to §121.98	Reserved.
§121.99	Violations

LICENSING OF SOLID WASTE COLLECTION SERVICES

§ 121.01 DEFINITIONS.

For purposes of this section, the following definitions will apply unless the context clearly indicates or requires a different meaning:

COMPENSATION. Money or other valuables given in return for work done, including any return from salvage such as recycling or resource recovery in addition to payment made for the removal of solid waste.

SOLID WASTE COLLECTION BUSINESS. Any person or persons in the business of collecting garbage and rubbish from dwellings, businesses, or other establishments. The primary service provided is solid waste collection according to a regular schedule at set rates for diverse customers, and may include contract waste removal, salvage and recyclable materials collection.

§ 121.02 LICENSE REQUIRED; EXEMPTIONS.

- A. No person shall engage or continue to engage in the collection, conveyance, haulage, or disposal of solid waste, including the collection or purchase of recyclables for compensation within the Dunes City limits without first obtaining a solid waste collection license from the City.

- B. The provisions of this section do not apply to the following:
1. A person conducting an activity determined by the City Council to be a civic, community, benevolent, or charitable non-profit program.
 2. A person transporting solid waste through the City that is neither collected nor disposed of within the City.
 3. The business of septic tank pumping.

§ 121.03 LICENSE APPLICATION AND REQUIREMENTS.

Applications for licenses issued hereunder shall be made on forms supplied by the City and shall contain all information requested by the City. An application shall not be accepted or processed unless it is complete. An application for a solid waste collection license by a person wishing to perform a solid waste collection service within the City shall include, but is not limited to, the following:

- A. Names of individuals, the business name, associated business names, street address, mailing address, telephone, mobile, and fax numbers, and email address, if any, of the applicant;
- B. Description of the service for which the applicant is seeking a license;
- C. Evidence that the applicant has or can obtain the equipment and personnel required to provide the service;
- D. Evidence of prior experience and knowledge that the applicant has the ability to provide service of the quality and quantity required by this Chapter 121;
- E. A list of all vehicles by Vehicle Identification Number (VIN) and equipment owned, leased, operated or controlled by the applicant used to conduct the business for which the application is made;
- F. A copy of all vehicle registration documents for each vehicle required to be registered with the State of Oregon Department of Motor Vehicles and proof of insurance for each;
- G. Proof of liability insurance, including liability insurance company name, contact name, address and telephone number;
- H. Proof of workers compensation insurance;

- I. Proof of all permissions and licensing including, but not limited to, Department of Environmental Quality hazardous waste hauling, waste tire carrier, transfer site utilization, and business license registration with the State of Oregon;
- J. An affirmed statement that the applicant has no record of violations of law or ordinances that indicate an inability to satisfactorily perform the service being licensed.

§ 121.04 INSURANCE.

Each applicant for a solid waste collection license shall submit a certificate of public liability insurance with a Thirty (30) day notice of cancellation clause acceptable to the City Attorney, which shall cover the applicant's business operation including each vehicle operated by the applicant. The insurance coverage shall include not less than One Million Dollars (\$1,000,000.00) for one person, nor less than One Million Dollars (\$1,000,000.00) for bodily injury due to each occurrence, and not less than One Million Dollars (\$1,000,000.00) for damage to property due to each occurrence. The insurance shall indemnify and hold the City harmless against liability or damage which may arise or occur from an injury to person or property as a result of the license holder's operation of the solid waste business.

§ 121.05 LICENSE ISSUANCE.

- A. Upon receipt of the information required with submission of an application for a license by a person seeking to provide solid waste collection service and after conducting such investigation as is considered appropriate, the City Recorder shall determine whether the applicant is qualified and whether there is a need that warrants issuance of a license, and if so, shall issue the license.
- B. Within Thirty (30) business days of filing the application for license or license renewal, the applicant shall be notified by the City Recorder, in writing or by electronic transmission, whether or not the application is approved.
- C. If, on the basis of the application review, the City Recorder determines the applicant does not qualify for issuance of a license to provide a service, the application shall be denied and the reasons for denial shall be provided to the applicant.
- D. A licensee shall notify the City within Thirty (30) business days of any change of information supplied in its application for a license. Failure to provide any information required in connection with any license application or renewal or failure to inform the City of any change in information previously supplied in connection with any application or renewal shall be grounds and sufficient cause to either deny any pending application or to revoke or suspend any active license of a solid waste collection business.

§ 121.06 LICENSE TERM; FEES; LICENSE TRANSFERABILITY.

- A. A license shall be valid from the date of issuance to the end of the next following August. An initial application fee for a license and an application for a renewal of a license shall be accompanied by a nonrefundable application fee of Twenty-Five Hundred Dollars (\$2,500.00). Application for a license renewal shall be made prior to the license expiration date. If a renewal of a license is submitted after the date expiration of the license, a late fee of Fifty Dollars (\$50.00) will be assessed.

A renewal application that is submitted after the end of September will be deemed a new application and shall be accompanied by another initial application fee. A license is issued to the applicant and is not transferable. If the ownership of a business is transferred, the new owners must obtain a new license.

- B. The annual fee for a solid waste business license may be paid semi-annually (not less than one-half the annual fee each payment), with the same late penalties applying to each portion. The first payment shall be due September 1 and the balance due March 1 of the following year.
- C. The failure to provide payment in full as defined herein shall be grounds and sufficient cause to revoke summarily the solid waste collection license.

§ 121.07 LICENSE SUSPENSION AND REVOCATION.

Upon determination that a licensed solid waste collection service is being conducted in violation of this Chapter 121 or another City ordinance or a state or federal law, the City Recorder shall notify the license holder of intent to revoke or suspend the license. Notice shall be by personal service or by registered mail deposited at a post office within Fifteen (15) calendar days prior to the effective date of the revocation or suspension. The notice shall state the reason for revocation or suspension and inform the license holder of a right to appeal. The City Council may decide to suspend a license without notice because of immediate threats to public health and safety. A hearing upon the suspension shall be held at the next regularly scheduled City Council meeting.

§ 121.08 APPEAL OF LICENSE DECISION.

An applicant whose application has been denied or a licensee who has received notice that his or her license is revoked or suspended shall have Ten (10) calendar days from the date of receipt of the notice of denial, revocation or suspension within which to file an appeal to the City Council. An appeal shall be made by delivery of a notice of appeal stating the reason for the appeal to the City Recorder, who shall notify the appellant of the time and place at which the City Council shall hear the appeal and make its final determination. The decision on a revocation or suspension that has been appealed shall remain in effect until reversed, modified, or upheld at the appeal hearing. The decision on appeal of the City Council shall be a final determination and shall become effective immediately.

§ 121.09 INSPECTIONS.

The vehicles and other equipment and property used to conduct a solid waste collection business shall be available for inspection at reasonable times to determine compliance with the provisions of this Chapter 121. Consent to such inspection is a condition to the granting of a solid waste collection license. The City Council may appoint a person to make inspection and report back to the City Council the results of such inspections.

§ 121.10 SERVICE REQUIREMENTS.

- A. *Response to requests for service; uniform charges.* A person licensed to provide a solid waste collection service within the City shall respond to a request for service within a reasonable time and shall charge uniformly according to the rate placed on file with the City Recorder. A person requesting regularly scheduled service shall receive the service the first regularly scheduled trip after receipt of the request, unless a later beginning is requested.

A person requesting special refuse hauling service shall receive service at the time and place agreement upon between the person requesting the service and the solid waste collection services provided, but in any event, will exclude non-business days and holidays. The person requesting the special refuse hauling services will be responsible for the payment of all fees and costs associated with said special refuse hauling service.

- B. *Requirements for a license garbage and rubbish collection service:*

1. In addition to other requirements, a collector of garbage within the City shall:
 - (a) Empty residential containers and other containers with garbage at least once every seven days or less frequently if agreed upon by customers;
 - (b) Collect no residential solid waste before 6:00 a.m. or after 8:00 p.m. All trash and recyclable materials placed for collection shall be considered the property and the responsibility of the customer until the time of collection when it shall become the property and responsibility of the service provider;
 - (c) Provide for the collection of recyclables separated from all other forms of solid waste;
 - (d) For those residents who have qualified disabilities under the Americans with Disabilities Act, carryout service shall be available at the regular service fee. Disability service shall be

provided upon completion of a written certification from a licensed physician that the resident's impairment qualifies as a disability and prevents him or her from utilizing curbside service and that no other person residing in the household is capable of moving the solid waste carts to the collection site;

- (e) Use a compactor-type truck with a receiving hopper and compaction device that shall move all waste from the hopper to a fully enclosed chamber or use a pickup truck in conjunction with a compactor truck;
 - (f) Have pickup trucks and other vehicles equipped with covers to prevent the loads of the vehicles from blowing or spilling from the vehicles. All waste must be secured to the vehicle or container and enclosed or covered with secured tarpaulins to prevent leakage, spillage, dusting, or litter. Such enclosures and tarpaulins must remain in place while in Dunes City. In the event a vehicle or container leaks, spills, dusts, or litters on any road within the limits of Dunes City, the person hauling the waste shall be responsible for all clean up and for paying any costs incurred or damages sustained by the City in connection with performing or monitoring such clean up;
 - (g) Owners and operators of licensed vehicles and containers shall be responsible to ensure that their vehicles are water tight, readily emptied, cleaned with sufficient frequency to prevent insect breeding or odors or other nuisances, and shall be maintained in good repair and a safe condition including, but not limited to, being free from fluid leaks so as to avoid materials infiltrating into area lakes, streams and waterways;
 - (h) Operate said pickup trucks and other vehicles in a manner that does not cause significant damage to roadways and is not beyond the design capabilities of the vehicle so as to cause littering or spillage of the wastes collected;
 - (i) Take reasonable care to protect the property of customers being served. Any damage or spillage of materials occurring as a result of the collector's actions shall be the collector's responsibility.
2. If a citizen is refused service by all licensees, the City Council may arbitrate and assign such customers on a rotating basis between all licensees.

3. Collection of special handling wastes shall be segregated from other categories of waste from the point of generation and must meet all applicable federal, state, and local laws, rules, and regulations.

§ 121.11 RATES AND PAYMENTS.

- A. *Rates.* Charges for solid waste collection services shall conform to the following criterion:
 1. Rates charged by a licensee shall be uniform for the same service or may be uniform within zones taking into account haul distance, concentration of dwelling units, and other factors.
 2. Each license holder shall file with the City Recorder a copy of his or her current rate schedule and shall notify the City Recorder of any changes in the rate schedule at least five days prior to the new rate taking effect.
 3. Notwithstanding the other provisions of this section, the City Council may, after public hearing, establish a uniform system of rates for the various types of service furnished by the licensees. If such a system of uniform rates is adopted by the City Council, no license holder may charge more than the rate specific under such rate schedule. The City Council does reserve the right to establish reasonable collection fee charges upon a finding of "No competition." If adopted, the rate schedule shall be reviewed by the Council not less than annually.
- B. *Payment.* A person licensed to provide solid waste collection service within the City may establish reasonable procedures to assure payment of charges due from customers. The license holder may require payment monthly in advance for regularly scheduled service. Collection service for which the charge is delinquent for a period of Thirty (30) calendar days may be discontinued by the license holder within Five (5) calendar days after giving appropriate written notice to the occupant of the premises.

§ 121.99 VIOLATIONS.

Violations of any provisions of §121.01 *et. seq.* shall be addressed in accordance with the provisions of Chapter 36 of the Dunes City Code.