

ORDINANCE NO. 853

AN ORDINANCE RELATING TO SOLID WASTE MANAGEMENT IN THE CITY OF PRINEVILLE; GRANTING AN EXCLUSIVE FRANCHISE TO PRINEVILLE DISPOSAL, INC.; PROVIDING PENALTIES FOR VIOLATION THEREOF; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.

THE PEOPLE OF THE CITY OF PRINEVILLE ORDAIN AS FOLLOWS:

Section 1. Purposes, Policy and Scope. It is declared to be the public policy of the City of Prineville to regulate solid waste management to:

- (1) Insure safe, efficient, economical and comprehensive solid waste service.
- (2) Insure fair and equitable consumer rates and to prohibit rate preferences or other practices that might be discriminatory.
- (3) Conserve energy and material resources, reduce solid wastes and promote material and energy recovery in all forms.
- (4) Provide for technologically and economically feasible resource recovery.
- (5) Eliminate overlapping service and thereby to increase efficiency and to decrease truck noise, street wear, energy waste, air pollution and public inconvenience.
- (6) Protect public health and the environment.
- (7) Provide public service standards.
- (8) Protect against improper and dangerous handling of hazardous wastes.

Section 2. Definitions.

- (1) City: The City of Prineville.
- (2) City Council: The City Council of the City of Prineville, Oregon.
- (3) Franchisee: The person or persons granted a franchise by this Ordinance and a subsequent Ordinance or a subcontractor to such person or persons.
- (4) Hazardous Waste: Any Waste:
 - (a) Defined as hazardous waste by or pursuant to ORS Chapter 459; or
 - (b) Defined as hazardous waste by another governmental unit having jurisdiction; or

- (c) Determined by competent authority to be hazardous to service workers, to service equipment, or to the public.
- (5) Person: Any individual, partnership, association, corporation, trust, firm, estate, joint venture or other private legal entity or any public agency.
- (6) Resource Recovery: The process of obtaining useful material or energy resources from solid waste, including reuse, recycling, and other materials recovery or energy recovery of or from solid waste.
- (7) Service: The collection, transportation or disposal of or resource recovery from solid waste.
- (8) Solid Waste: All solid waste or semi-solid waste including, without limitation, garbage, rubbish, refuse, trash, ashes or swill, news print or waste paper, corrugated or cardboard, grass clippings, compost, residential, commercial, industrial, governmental or institutional waste, discarded home or industrial appliances, equipment or furniture, vehicle parts or tires, vegetable or animal wastes, and other wastes.
- (9) Solid Waste Management: The prevention of or reduction of solid waste; management of service, and facilities and equipment necessary or convenient to such activities.
- (10) Waste: Material that is no longer directly useable by the source, generator or producer of the material, which material is to be disposed of or to be resource recovered by another person.
- (a) The fact that all or any part of the materials may have value and thus be recovered does not remove them from this definition.
- (b) The fact that the source, generator or producer of materials has separated or segregated such material from other waste does not remove the materials from this definition.

Section 3. Persons and Practices Exempt from Franchise. Nothing in this Ordinance requires a franchise from the following persons for the following businesses or practices:

- (1) The collection, transportation and reuse of repairable or cleanable discards by a private charitable organization regularly engaged in such business or activity, i.e., Neat Repeat or similar organization.

- (2) The collection, transportation and reuse or recycling of totally source separated materials by a fraternal or charitable organization which is using the activity for fund raising; including, without limitation, scouts, and churches.
- (3) The collection, transportation or redemption of returnable beverage containers under ORS Chapter 459 and the portion thereof commonly known as the "Bottle Bill".
- (4) The generator or producer who transports and disposes of waste created as an incidental part of regularly carrying on the business or service of auto wrecking, to the extent licensed by the State of Oregon; demolition, land clearing or construction; janitorial service; gardening, park maintenance or landscaping service; street sweeping, auto body recovery; or septic tank pumping or sludge collection. "Janitorial Service" does not include cleanup of accumulated or stored wastes.
- (5) The transportation by a person of solid waste generated or produced by such person to a disposal site, resource recovery site or market. The transportation by a landlord of residential property of solid waste generated or produced by tenants or occupants to a disposal site, resource recovery site or market.
- (6) The purchase of totally source separated solid waste for fair market value; however, the City Council may require that anyone making such purchase apply for an exemption as described in subsection (9) below.
- (7) The providing of service to a state or federal agency under written contract with such agency.
- (8) The providing of service for wastes determined by competent authorities to be hazardous.
- (9) Any practice, business or activity may be exempted by the City Council after public hearing thereon. In considering whether the City Council shall exempt such practice, business or activity, it may consider the purposes and standards of this ordinance and may require terms and conditions as it deems necessary in the public interest.

Section 4. Practices Prohibited Without a Franchise. Unless exempted by Section 4 or franchised pursuant to Section 6 of this Ordinance, no person shall:

- (a) Solicit customers for service; or
- (b) Advertise the providing of service; or
- (c) Provide service in the City.

Section 5. Grant of Exclusive Franchise. There is hereby granted to Prineville Disposal, Inc., the exclusive right, privilege and franchise to provide service within the City limits as of date of this Ordinance and any area that may hereafter be annexed to the City and, for that purpose, to utilize the streets of the City.

Section 6. Franchise Term. The rights, privileges and franchise herein granted shall begin, retroactively, on July 1, 1981, and shall run for a period of six (6) years expiring on June 30, 1987. Realizing that lead-in times are necessary in a franchise of this sort, the following provisions also shall apply to the terms of this franchise:

(1) During the immediate ninety (90) day period prior to July 1, 1985 (the fourth anniversary date), Franchisee may request a two (2) year extension to this franchise.

(2) Negotiations for the renewal of this franchise shall begin no earlier than January 1, 1987, and no later than April 1, 1987, and shall end no later than June 30, 1987, unless extended by mutual agreement of the City and Franchisee.

(3) Should a new franchise be negotiated into between the City and Franchisee, said new franchise would run concurrently with the two year extension if said extension was previously granted.

(4) Should the City and Franchisee fail to negotiate a new franchise, this franchise shall expire at midnight June 30, 1987, unless the two year extension was previously granted. If said extension has been granted, Franchisee shall have until June 30, 1989, to operate as Franchisee.

There shall be an annual review of this franchise, and operations under it, in May of each year. Said annual review shall be in the form of a work session between the City's Public Works Committee and Franchisee or his

designated representative.

Section 7. Franchise Fee. Franchise shall pay to the City a franchise fee or charge equivalent to 3 per cent of Franchisee's gross operating revenue as the same is defined herein.

(a) "Gross operating revenue," as used herein shall be defined as the gross revenue from solid waste collection services within the corporate limits of the City.

(b) The franchise fee due hereunder shall be paid annually, by May 1st of each year for the calendar year preceding.

(c) The City acknowledges that under the terms of this new franchise, the City should pay for services provided to the City by Franchisee. In lieu of this however, the City and Franchisee may reach a mutually agreed upon level of services to the City and mutually agreed upon level of charges for these services. This mutually agreed upon amount may then be deducted from the annual franchise fee due to the City by Franchisee.

Section 8. Franchise Responsibility.

(1) The Franchisee shall:

(a) Dispose of solid waste at the site approved by local government unit having jurisdiction and comply with all applicable laws, rules and regulations.

(b) Provide and keep in force public liability insurance in the amount of not less than \$500,000.00 for injury to a single person, \$500,000.00 to a group of persons and \$100,000.00 property damage, all relating to a single occurrence. In addition to the above described insurance, Franchisee shall keep and maintain "umbrella coverage" in the amount of \$1,000,000.00, subject to review and revision on a yearly basis. Such insurance shall be evidenced by a Certificate of Insurance filed with the City Recorder.

(c) Within 30 days after the effective date of this Ordinance, file with the City Recorder a written acceptance of this franchise by

endorsing acceptance on a copy of this Ordinance.

(d) Provide sufficient collection vehicles, containers, facilities, personnel and finances to provide good service.

(e) Respond promptly and effectively to any complaint on service.

(f) Provide a performance bond in the amount of \$5,000.00 with a surety licensed to do business in the State of Oregon conditioned upon the full and faithful performance of this Agreement and franchise and this Ordinance. In the event that the City Council finds that the Franchisee has adequate experience and otherwise meets the requirements to guarantee service, it may waive, by City Council action, all or part of the bond requirements and may attach any necessary condition to the waiver.

(2) The Franchisee is not required to store, collect, transport, transfer, dispose of or resource recover any of what is determined by competent authorities to be hazardous waste; provided, however, that the Franchisee may provide such service outside this Ordinance in compliance with all applicable laws, ordinances and regulations.

(3) The Franchisee may subcontract with others, to provide a portion of the service where Franchisee does not have the necessary equipment or service; however, such subcontract shall be with the approval of the City Administrator and/or the City Council. Such a subcontract shall not relieve the Franchisee of total responsibility for providing and maintaining service and from compliance with this Ordinance.

(4) The Franchisee shall not:

(a) Give any rate preference to any person, locality or type of solid waste stored, collected, transported, disposed of or resource recovery. This paragraph shall not prohibit uniform classes of rates based upon length of haul, type or quality of solid waste handled and location of customers so long as such rates are reasonably based upon cost of the particular service and are approved by the City Council.

(b) (1) Transfer this franchise in any way or any interest therein, or transfer any ownership interest in franchise, including but not limited to the transfer of franchisee stock to any other person

without prior written approval of the City Council.

(2) A pledge of this franchise or any interest in franchise or its stock as financial security shall be considered as a transfer for purposes of this section. The City Council may attach whatever conditions it deems necessary to any transfers

Section 9. Suspension, Modification or Revocation of Franchise.

(1) Failure to provide good service or other wise comply with the provisions of this Ordinance after written notice shall be grounds for modification, suspension or revocation of the franchise.

(2) After written notice from the City Administrator that such grounds exist, the Franchisee shall have at least sixty (60) days from the date of mailing of the notice in which to comply or request a public hearing before the City Council.

(3) At a public hearing, the Franchisee and other interested persons shall have an opportunity to present oral, written or documentary evidence to the City Council.

(4) In the event the City Council finds an immediate and serious danger to the public it may take such action as it deems necessary in the public interests.

Section 10. Termination of Service. The Franchisee shall not terminate service to any customers unless:

(1) The street or road access is blocked and there is no alternate route.

(2) Excessive weather conditions render providing service unduly hazardous to persons providing service or such termination is caused by accidents or casualties caused by an act of God, public enemy or vandalism or

(3) A customer is not complying with the prohibitions of Section 12 of this Ordinance or has not paid for service provided after a regular billing and after a fifteen (15) day written notice to pay, or

(4) Ordered by a legislative, administrative or judicial body having jurisdiction.

Section 11. Rate Determination.

(1) Rates for service shall be those contained in the document marked "Exhibit A", attached hereto and by this reference hereby incorporated in this Ordinance.

(2) The Franchisee may file an application yearly for an adjustment in rate, such application to be received by the City no later than April 15 of any one year. In a scheduled Public Hearing, the City shall act upon such request for rate adjustment no later than June 30 of the same year, and the new rate increase or decrease will begin July 1. Rates shall be changed by resolution of the City Council.

(3) Rates charged shall be those set as provided herein. Nonscheduled services may be provided at the reasonable cost of providing the service.

(4) Franchisee shall bill and collect on a current billing basis. When Franchisee has experienced collection problems on a particular account, he may require other than current billing basis. Such other procedures will be subject to disapproval by the City and will be reasonable business practice.

(5) If approved in the rate schedule, Franchisee may charge a starting charge to any customer who has been previously terminated for failure to pay for service.

(6) Rates shall be uniform or uniform within zones or classes of service.

(7) Nothing in the above section shall prohibit Franchisee from allowing qualified senior citizen rates. Qualifications for such senior citizen rates shall be determined by Franchisee.

(8) Franchisee may require the owner of rental or leased premises to accept responsibility for the payment for service to such facilities as a condition for providing such service.

Section 12. Public Responsibility. In addition to and not in lieu of compliance with ORS Chapter 459, and other applicable laws and regulations:

(1) No person shall place hazardous waste for collection or disposal by Franchisee without notice. This shall not apply to minor quantities of wastes generated at or by a single family residential unit.

(2) No unauthorized person shall place material in or remove material from

a solid waste collection container without permission of the owner of the container. For the purpose of this section, the Franchisee is the "owner" of containers supplied by Franchisee.

(3) No unauthorized person shall remove solid waste placed out for collection and resource recovery by the Franchisee or a person exempted by Section 3 of this Ordinance and operating solely within the exemption.

(4) Unless permitted by the Franchisee, no person shall install or use any container of one cubic yard or greater in capacity for pickup by Franchisee other than those supplied by Franchisee. The purpose of this subsection is to insure safe equipment, sizes and weights and facilitate Franchisee utilizing the most efficient collection equipment and methods. Rates for use of Franchisee's containers and drop boxes shall be included in the adopted rate schedule.

(5) The Franchisee is not required to service an underground container unless the person responsible for it places the can above ground prior to time of collection.

(6) The Franchisee is not required to handle containers designed for mechanical pickup exceeding safe loading weights or volumes as established by the Franchisee to protect service workers, the customer, the public and the collection equipment.

(7) The Franchisee is not required to handle containers designed for manual pickup exceeding thirty-two (32) gallons in size or sixty (60) pounds in loaded weight. Such containers shall be rigid, fireproof, and rodent proof construction and not subject to cracking or splitting. Such containers shall have proper handholds and bales.

(8) Unless special service or service equipment is provided by the collector for handling unconfined waste, materials such as rubbish and refuse, brush, leaves, tree cuttings and other debris for manual pickup and collection shall be in securely tied bundles or in any box, sack or other receptacles and solid waste so bundled, tied or contained shall not exceed sixty (60) pounds in weight.

(9) Where a customer requires an unusual volume of service or a special type of service requiring substantial investment in equipment, the Franchisee may require a contract with the customer as necessary to finance and assure

amortization of such equipment. The purpose of this provision is to assure that such equipment not become a charge against other rate payers who are not benefited.

(10) Franchisee may charge extra for return service to a container or drop box or roll off box that is blocked by automobiles or other obstacles.

(11) Every person who generates or produces wastes shall remove or have removed all putrescible wastes at least every seven days. More frequent removal may be required where facility or service involves the public health. All wastes shall be removed at sufficient frequency as to prevent health hazards, nuisances or pollution.

(12) The producer or generator of waste shall clean cans and shall keep the area around both cans and containers free of accumulated wastes.

(13) Approved disposal methods shall be as follow:

(a) No person shall burn, dump, or in any other manner dispose of solid waste upon any street, alley, public place or private property within the City except as provided in this Ordinance.

(b) Wastepaper, boxes, rubbish and debris; brush, leaves, grass, wood, and cuttings from trees, lawns, shrubs and gardens (but excepting paper, cardboard or wood containers in commercial quantities), may be burned on private property in furnaces/covered burn barrels; or, upon special permit from the Fire Chief; or in open fires, upon a permit secured from the Fire Chief.

(14) The City reserves the right to require the separation or component parts or materials in or from solid wastes and require the deposit thereof in separate cans, containers, receptacles or places and prescribe the method of disposal or resource recovery thereof.

Section 13. Severability. Any findings by any court of competent jurisdiction that any portion of this Ordinance is unconstitutional or invalid shall not invalidate any other provision of this Ordinance.

Section 14. Penalties. Violation by any person of the provision of this Ordinance upon conviction, shall be punished by a fine of not more than \$500.00. Each day in violation is a separate offense.

Section 15. Complaints. If either the City or Franchisee receives a complaint, such complaint will be handled by filling out the form delineated on Exhibit "B" attached hereto and made a part hereof. Such forms will be filled out in duplicate. If Franchisee receives the complaint, he is responsible for filling out the information required on such form and sending a copy to the City within thirty (30) days of the resolution of such problem. If the City should receive a complaint, they will forward to the Franchisee one copy of the form. Franchisee will be responsible for returning one copy of the form within five (5) days of the receipt of it, indicating the action taken.

Section 16. Ordinance No. 717 and all ordinances in conflict with Ordinance No. 853 are hereby repealed.

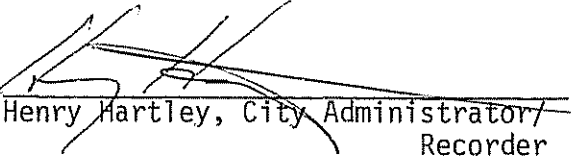
Section 17. The City Council finds and declares that an emergency exists and that the immediate passage of this ordinance is necessary for the health, safety and welfare of the residents of the City of Prineville and this ordinance shall go into force and effect upon its passage by the City Council and signed by the Mayor.

Passed by the City Council this 22nd day of September, 1981.

Approved by the Mayor this 22nd day of September, 1981.



David C. Asher, Mayor



Henry Hartley, City Administrator/
Recorder

EXHIBIT "A"
 CITY OF PRINEVILLE
 COLLECTION RATES
 June 1, 1981

CANS

First can in alley or on curb	\$4.15 per month for weekly service
Each additional can	\$2.10 per month for weekly service
First can walk or drive-in	\$5.25 per month for weekly service
Each additional can	\$2.65 per month for weekly service
Once-a-month service (2 can limit)	\$2.75 per month
55 gallon barrel service (at option of driver)	\$6.00 per month for weekly service

-Senior Citizen discount of 10% upon request (age 65 years and over)

CONTAINERS

Number of pick-ups per week

	<u>1-time</u>	<u>2-times</u>	<u>3-times</u>	<u>4-times</u>	<u>5-times</u>	<u>6-times</u>
1 cu. yd.	\$ 24.00	\$ 41.45	\$ 57.70	\$ 75.15	\$ 92.60	\$110.05
1½ cu. yd.	30.90	54.90	78.90	102.90	126.90	150.90
2 cu. yd.	41.60	74.40	107.10	139.90	172.60	205.40
3 cu yd.	57.16	101.56	145.96	190.36	234.76	279.16

-Above rates include rental and exterior maintenance charge.

-A 15% discount is offered for two or more containers in the same location.

ROLL-OFF BOXES

20 cu. yd. \$37.00 per dump PLUS disposal fee

-A demurrage charge may be levied beyond five (5) consecutive days.

EXHIBIT "B"

FORMAL NOTICE OF COMPLAINT

Date: _____

Customer's Name and Address: _____

Nature of complaint: _____

Action taken by Prineville Disposal, Inc., Franchisee: _____

Was complaint solved to satisfaction of customer?:

Yes _____ No _____

NOTE: If Franchisee receives complaint, he is responsible for filling out the information required and sending a copy to the City within thirty (30) days of resolution of such problem.

If the City receives the complaint, they will forward to the Franchisee two copies of this form and Franchisee will be responsible for returning one copy of this form within five (5) days of receipt of it, indicating the action taken.