

ORDINANCE NO. 381

AN ORDINANCE OF THE CITY OF SISTERS AMENDING SISTERS MUNICIPAL CODE SECTION 8.04, ADDING PROVISIONS TO SISTERS MUNICIPAL CODE SECTION 5.06, GRANTING AN EXCLUSIVE SOLID WASTE FRANCHISE TO HIGH COUNTRY ENTERPRISES LLC, AND DECLARING AN EMERGENCY.

The City Council of the City of Sisters, Oregon hereby ordains as follows:

SECTION 1: The City of Sisters approves and adopts the Solid Waste Franchise Agreement with High Country Disposal, LLC, which is attached as Exhibit A and is incorporated into this ordinance..

SECTION 2: Sisters Municipal Code Section 8.04 is amended to read as follows (words **underlined and in bold** are added and words ~~struck through~~ are to be deleted):

8.04.010. Purpose: The City of Sisters City Council finds that the maintenance of health and sanitation, along with an attempt to fairly equalize the cost of providing a necessary service, requires compulsory and universal collection, removal and disposal of ~~refuse~~ **solid waste** by all **households, businesses and other entities that generate solid waste** generators within the city limits. ~~The City Council further finds the public interest is best served by city-operated collection services.~~

8.04.020 Definitions: In this ordinance, the following words mean:

(1) Collector. Any **entity or** any person, agent, officer or employee of the City to whom authority is given for the collection and disposal of **solid waste** ~~refuse~~.

(2) Commercial **solid waste** refuse. Solid waste material from stores, shops, or similar enterprises. These include cardboard, papers, bottles, cans, furniture, and bedding. Construction material is excluded.

(3) Construction materials. These shall include cement, plaster, lumber, bricks, stone, wire, nails, metal and other building materials commonly used in construction and repair work.

(4) Customer. **Any tenant, occupant or owner of a building or site on the City's collection route that is assigned an account number for the purpose of using a collector of solid waste and who is responsible for payment for the service.**

(~~5~~4) Disposal area. Any area designated or provided by the Deschutes County Solid Waste Department for the purpose of disposal of ~~refuse~~ **solid waste**.

(65) Food-processing waste. All accumulated refuse from animal, fruit and vegetable matter, liquid or otherwise, that attends the preparation and/or use of meat, fish, vegetable and fruit, which is subject to decay and attraction for flies and rodents.

(76) Garbage. All putrescible wastes, including vegetable waste, grass clippings (except for recognized composting methods), and all substances from all public and private establishments and residences, but not including sewage, body waste, and recognized industrial by-products.

(87) Hazardous materials. (a) Materials such as, but not limited to, motor oil, gasoline, diesel fuel or other flammable liquids, paints, pesticides and herbicides, toxic chemicals, asbestos and also including infectious waste from medical, dental, veterinary clinics or other similar facilities. (b) Any waste as defined as hazardous waste by or pursuant to ORS Chapter 459.

(98) Industrial solid waste refuse. Solid waste materials from factories, processing plants or other manufacturing enterprises. The words include putrescible garbage from food-processing plants, condemned foods, and miscellaneous manufacturing refuse.

(109) Refuse. Ashes, garbage, rubbish, swill and all other putrescible and non-putrescible wastes, except sewage, from all public and private establishments and residences.

(11+0) Rubbish. All non-putrescible waste materials, except ashes, which are rejected, abandoned or discarded by the owners or producers thereof as offensive, useless or no longer desired by producers thereof and which, by their presence, may injuriously affect the health, comfort or safety of the community by increasing disease or hazard by fire. The term includes paper, cartons, boxes, bottles, cans, wood, tree branches, yard trimming, furniture, bedding, metals, glass, crockery and similar substances or materials of the nature described from all public and private establishments or residences.

(12) Solid Waste. All putrescible and non-putrescible wastes, including but not limited to garbage; rubbish; refuse; ashes; waste paper and cardboard; commercial, industrial, demolition, and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes; dead animals; infectious waste as defined in ORS 459.386; and other wastes; but the terms does not include hazardous wastes as defined in ORS 466.005 or materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operation and the growing or harvesting of crops and the raising of animals.

(13+1) Swill Every ~~refuse~~ **solid waste** accumulation of animal, fruit (or vegetable matter), liquid or otherwise, that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit and vegetables, that is subject to decay and/or the attraction of flies or rodents.

(14+2) Transfer station. Any area designated provided by the Deschutes County Solid Waste Department for the purpose of disposal of refuse **solid waste**.

~~(13) User. Any tenant, occupant or owner of a building or site on the City's collection route that is assigned an account number for the purpose of using a collector of refuse~~

(15) Violation. **Any Class A, B or C violation and the associated fine as set by Resolution.**
~~Class A)
Class B} Set by Resolution.
Class C}~~

(16) Yard Debris: *Vegetative and woody material generated from residential property or from commercial landscaping activities. Includes grass clippings, leaves, hedge trimmings and similar vegetative waste, but does not include stumps or similar bulky wood materials.*

8.04.030 Enforcement Officers: ~~Deschutes County Solid Waste Department and all employees of the Sisters Public Works Department~~ **The City Manager or designee** shall enforce this ordinance and are authorized to enter **private** property for the limited purpose of fulfilling its purposes.

8.04.040 Solid Waste Refuse Containers:

(1) Refuse **solid waste** containers will be provided to all **customers** users by the City **or its franchisee. Solid waste will be kept only in the designated container. City and its franchisee have the authority to limit what types of solid waste can be placed in a container provided for recycling and yard debris.**

(2) All containers will **remain** be the property of the ~~City~~ **entity that provided the container.**

(3) Each residential container will be assigned an account number. The serial-numbered container shall remain with the assigned account and shall not transfer with the **customer** user.

(4) In order to maximize health and sanitation conditions, along with keeping excess water out of the container, **customers shall keep the lid on their** ~~all users'~~ containers or dumpsters ~~shall have a closed lid~~ at all times except during loading or emptying.

(5) The size of residential refuse **solid waste** containers **and the maximum weight for each container will be established by the entity providing the container.** ~~will be 32 and/or 64 gallons. The maximum weight for 32 gallon residential containers shall be 75 pounds when fully loaded. The maximum weight for 64 gallon residential containers shall be 150 pounds when fully loaded. Commercial containers will be either 1.5 or 2.0 cubic yards. The~~

~~maximum weight per yard of refuse in a commercial container shall be 800 pounds.~~

(6) Stolen or damaged ~~refuse~~ **solid waste** containers shall be reported to the Public Works ~~Superintendent~~ **Director or the franchisee**. The City ~~or franchisee~~ will replace stolen containers or repair damaged containers free of charge, except those determined by the Public Works ~~Superintendent~~ **Director or the franchisee** to **have been** be stolen or damaged through customer negligence or abuse.

(7) If a container is determined to be damaged by negligence, the ~~customer assigned user~~ shall be responsible for replacement **cost** of the container from the City ~~or franchisee~~. The cost of the container shall be determined by replacement costs at time of damage.

(8) Customer application for City services shall include both City water **and sewer**, and City **satisfactory evidence that customer has signed up for** garbage collection services.

(9) Reasonable care and cleaning of ~~refuse~~ container(s) shall be the responsibility of the customer.

(10) Commercial customers shall be furnished an adequate number of dumpsters for their business.

(11) In the event a customer wishes to padlock a dumpster, it shall be the responsibility of the customer to unlock the dumpster before **the scheduled** collection time.

(12) The Public Works ~~Director~~ ~~Department~~ shall have the authority to determine the size of ~~refuse~~ **solid waste** container for commercial accounts.

(13) **All charges for residential and commercial solid waste collection will be approved by the City Council before they go into effect.** ~~There will be a charge as set by resolution and adopted by City Council for any and all extra garbage placed by rollcarts and/or dumpsters.~~

8.04.050 **Solid Waste Refuse Container Locations**

(1) The City **and franchisee** will determine container locations for residential and commercial **customers** users.

(2) Residential customers ~~owners~~ shall have their containers at the designated site by 7:00 a.m. on the day of scheduled pickup and will return the container to their own property by 7:00 p.m. of the same day.

(3) Commercial customers ~~users~~ shall leave their containers/dumpsters in the

designated location at all times unless otherwise authorized by the Public Works Superintendent Director.

(4) On the day scheduled for pickup service, residential garbage containers shall be placed in the following locations:

(a) Residential ~~customers~~ ~~users~~ shall place their containers curbside or other suitable location for collection. ~~in the place designated by The Public Works Superintendent Director~~ may designate the specific location to place the containers for collection.

(b) If it is a multi-family dwelling which has individual metered account numbers that have each been assigned a residential container, the container shall be placed at the location designated by the ~~City Public Works Department~~ Director.

(c) If proof of physical incapacitation is documented by the customer ~~user~~ to the Public Works Superintendent Director, certain considerations may be waived as to placing the customer's ~~user's~~ container at the designated site.

(5) The customer ~~user~~ shall insure that:

(a) The container is free from surrounding obstructions, such as trees, lamp posts, fences, snow, debris, etc. within a three-foot radius.

(b) A 15-foot space on each side of the container shall be free of all parked vehicles, equipment, or delivery trucks prior to collection time.

(c) The container shall not be picked up if access to container is blocked in accordance with Section (5) (a) (b). If a customer ~~user~~ requests a return trip, an additional fee will be charged.

(6) A customer ~~user~~ requiring the use of a commercial container or dumpster shall provide and maintain a level, hard and durable resting surface for the container. The size and location of the pad is to be determined by the Public Works Superintendent Director. Commercial containers will not be delivered until a satisfactory dumpster pad has been constructed.

8.04.060 Collection and Disposal:

(1) All residents and businesses are required to participate in the City's universal ~~garbage and refuse~~ solid waste collection program.

(2) No person may collect ~~garbage~~ **solid waste** or transport the same upon or through any street or public place unless such person is an employee, a contractor or agent of the City or the City's franchisee. **A violation of this provision is a Class C violation**

(3) ~~No hazardous materials in the garbage containers shall be placed in the collected or disposed of by the City.~~ **Customers shall not deposit** ~~No hazardous materials in the garbage containers shall be placed in the collected or disposed of by the City.~~ **All hazardous materials shall be disposed of in a manner as authorized by the City or the franchisee.** **A violation of this provision is a Class C violation.**

(4) A customer user may transport **solid waste generated by the customer** material from ~~the customer's~~ **his** residence or business premises to the approved transfer station or disposal area. All transportation shall be in a vehicle or truck with sufficient capacity and size to support the load. All fees for disposing of this material will be ~~born~~ **paid** by the delivering person.

(5) Any vehicle used by a person to transport **solid waste** ~~commercial refuse, food processing waste, garbage, industrial refuse, refuse, rubbish, swill, construction materials, and hazardous materials~~ shall be so loaded and operated as to prevent the wastes from dropping, sifting, leaking, blowing or otherwise escaping from the vehicle onto the public right of ways or adjacent lands. **A violation of this provision is a Class B violation.**

(6) All ~~refuse~~ **solid waste** consisting of rags, used clothing, bedding, mattresses, shoes, or other rubbish which may carry germs or communicable diseases shall, if possible be taken by the customer collector direct to the approved disposal area or transfer station on the day of collection. ~~The collector shall not pick up or retain any such described rubbish or carry any such rubbish to any barn, garage, or premises for storage, segregation or use.~~

(7) Construction material, hot ashes, sod, dirt or rocks shall ~~not~~ be deposited **only in containers designated for this type of waste by** ~~in any container provided by the City or the franchisee.~~ **A violation of this provision is a Class C violation**

(8) No appliances, automobile parts, metal, or tires shall be **placed in the solid waste containers**. This type of waste shall be disposed of as designated by ~~collected or disposed of by~~ the City or the franchisee. **A violation of this provision is a Class A violation.**

(9) Every person who generates or produces wastes shall have removed all putrescible wastes at least every seven days. More frequent removal may be required where a facility or service involves the public health. All wastes shall be removed at sufficient frequency as to prevent health hazards or pollution. **A violation of this provision is a Class B violation.**

(10) All ~~garbage and putrescible materials~~ **solid waste** shall be stored in containers supplied by the City or franchisee, or other means as approved by the City. **A violation of this provision is a Class B violation.**

(11) The producers or generator of **solid** waste shall clean all containers and shall keep the area around such containers free of accumulated **solid** wastes. ~~The City shall provide maintenance as required to containers.~~ **A violation of this provision is a Class B violation.**

(12) Cat litter and/or cold ashes must be bagged and tied before placing in waste container. **A violation of this provision is a Class A violation.**

8.04.070. Non-profit Organization - Special Drives: Paper, bottle or other approved drives may be carried on from time to time by non-profit ~~institutions or organizations~~ under permit from, and in accordance with, rules and regulations prescribed by the City ~~Administrator.~~ **Manager.** No charge may be made against ~~refuse~~ **solid waste** customers for the removal of such items and no claim may be made by the collector because of loss of business.

8.04.080 Rates and Billing Methods: All ~~rates and~~ methods of billing will be **determined by the franchisee.** ~~designated by resolution and approved by the City Council. As part of the universal utility service, beginning July 1, 1998, the City will discontinue the practice of billing new accounts separately for city services. All metered accounts will be assigned one account number. One bill will be sent for each metered account for all city services which includes water, garbage, and sewer.~~

8.04.090 Penalties:

~~(1) Providing a method for universal refuse collection and disposal, as well as for furnishing water to the inhabitants of the City, are public services which, in many respects, supplement each other; and it is necessary that payment for the services be prompt. In addition to the other provisions set forth in this section, the City may turn off the water supply of any person who fails to pay utilities as billed or who fails to comply with this ordinance and the rules and regulations adopted therein. When the payment is made or the violation corrected, the water may be turned on upon payment of the required charges and in accordance with the rules and regulations governing the water system.~~

~~(2) Any person who receives service from the City shall be responsible to the City for payment for such service. The owner of a rental or lease facility shall be liable for payment for services provided to a tenant of such dwelling or business if the tenant fails to make timely payment for such service.~~

~~(3) All charges for furnishing garbage service by the City shall be chargeable to the user at the premises or any former premises where garbage services were supplied. Where the user has a delinquent bill for one premise, the delinquency shall be charged to the user for garbage services obtained at any other premises.~~

~~(4) Payment for garbage service is due and payable as hereafter described by the City. If payment becomes delinquent, the enforcement proceedings may be instituted by the City as~~

follows:

~~———— (a) ——— In the event of nonpayment after proper notice, the City may establish the debt as a lien against the property in the same manner as liens are created for utility services provided by the City, which lien shall include the cost of service, administration, legal time, recording and other direct or indirect costs plus one percent per month interest for each month or fraction thereof from the time of required payments; or~~

~~———— (b) ——— Withdraw City service of any kind from the property except fire and police protection; or~~

~~———— (c) ——— Collect the debt in the same manner that other debts are collected including, without limitation, the payment for the service, costs of collection by the City or other persons, and interest of one percent per month or fraction thereof from the date payment was required; or~~

~~———— (d) ——— Any combination of the above.~~

~~———— (5) ——— Delinquent accounts:~~

~~———— (a) ——— Delinquent notice. A reminder of account delinquency may be sent, at the discretion of the City Recorder, to each delinquent account on or about ten (10) days after the account becomes delinquent.~~

~~———— (b) ——— Disconnect notice. On or about fifteen (15) days after an account becomes delinquent, a second notice entitled "Disconnect Notice" shall be sent to the customer. Said notice shall state a date on which water will be turned off if the delinquent account is not paid in full prior thereto. At least 24 hours prior to the discontinuance of the water service for delinquency, a disconnect notice shall be left at the premises receiving the water service or if the Public Works Department personnel is unable to reasonably access the premises, notice shall be mailed to the customer. The disconnect notice shall state that water services shall be turned off unless all delinquent amounts and charges are paid. An administrative charge set by City Council resolution may be added to the account if the account has not been paid and a disconnect notice has been mailed to the customer or left at the premises receiving water services.~~

8.04.100 Multiple-dwelling Garbage Solid Waste Collection Payments:
Owners of multiple dwellings or apartments (two or more families) shall ultimately be responsible for payment of ~~refuse~~ **solid waste** collection services rendered to premises owned by them, even though the individual apartments or dwellings are serviced by separate water meters or separate garbage solid waste collection accounts.

8.04.110 Special Collection

(1) Special collection consists of picking up any solid waste too large to be placed in

a container or dumpster, or is otherwise not permitted to be placed in a residential container or dumpster, including hazardous waste and appliances. Since no garbage, refuse or rubbish shall be allowed to be stored outside containers or dumpsters, for a fee the City will provide special collection service when requested.

(2) **At the request of a customer,** the City **or franchisee** may, **but is not required to,** at the request of a user, pick up additional **solid waste.** **The customer shall be responsible for any additional fee for the special collection** refuse requiring special handling for a fee.

(3) Special handling consists of picking up any refuse too large to be placed in a residential container. It also includes garbage, refuse or rubbish that will not fit in the assigned container or dumpster.

8.04.120 Prohibited Practices:

(1) No person may deposit or bury rubbish or garbage except at an approved disposal site. ~~Non-putretive and waste material may be used for filling in holes, depressions and lots if the material is leveled and properly covered. (Violation Class B plus cleanup costs).~~

(2) It shall be unlawful for any person other than the **customer** user to dig into, scatter, displace or disturb any ~~garbage or rubbish~~ which **solid waste that** has been put out for collection. **A violation of this provision is a Class B violation.** **The customer will also be liable for all plus cleanup costs.**

8.04.130 Refusal of Services: ~~The Public Works Department~~ **City or franchisee** has the right to refuse service to any party violating any section of this ordinance **until the violation is corrected.** **The customer will still be obligated to pay the base service rate.**

8.04.140 Private Property Disposal: No person may dump, place or deposit upon any lot or property owned by any other person any **solid** ~~garbage, swill, dirt, rubbish, refuse or other waste material~~ except that dirt and clean fill material may be dumped or deposited upon any lot or property owned by any other person within the City after first obtaining the written consent of the owner or legal occupant of such property. **A violation of this provision is a Class A violation.**

8.04.150 Public Property Disposal: No person may dump, place or deposit upon any of the public streets, alleys, parks or lots of the City any ~~garbage, rubbish, refuse, or other~~ **solid waste materials.** **A violation of this provision is a Class C violation.** **The customer will also be liable for plus cleanup costs.**

8.04.160 Industrial Solid Waste Refuse: No person may transport industrial **solid waste** ~~refuse~~ produced by such person upon or through any street or public place of the City unless such person obtains permission in writing to do so from the Public Works ~~Superintendent~~ **Director** or

his/her designate designee. A violation of this provision is a Class C violation.

8.04.170 Personal Garbage/ Solid Waste: No person shall dump personal solid waste ~~garbage or waste materials~~ in City containers. ~~with the intent to avoid payment for services in accordance with ORS 164.125.~~ A violation of this provision is a Class A violation.

8.04.180 Classification of Charges: Any fees, charges, taxes or other penalties that are assessed, requested or required by this ordinance or any resolution relating to this ordinance are classified as not subject to the limits of Section 11b, Article XI, of the Oregon Constitution.

SECTION 3: Sisters Municipal Code Section 5.06 is amended to add the following provision:

5.06.065 Solid Waste Collection and Recycling. No permit shall be issued until a solid waste collection plan, which includes full recycling, has been approved by the City of Sisters.

5.06.105 Changes to Event Plans. The event plans required under this code section and approved by the City or other agencies may not be changed or deviated from without the written consent of the City and any agencies that previously approved the event plans.

SECTION 4: Emergency.

The City Council finds that this ordinance is necessary for the health and safety of the residents of the City of Sisters and that it is in the best interest of the City of Sisters to have this ordinance take effect upon adoption. Therefore, the City Council hereby declares an emergency. This ordinance, therefore, shall become effective on the date of passage.

PASSED BY THE CITY COUNCIL of the City of Sisters, this _____ day of September, 2008.

Mayor

ATTEST:

City Recorder