

ORDINANCE NO.1461

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, IN ACCORDANCE WITH IDAHO CODE 50-329, 50-329a, 50-330 AND 50-344 GRANTING HARDIN SANITATION, INC. A TEN YEAR FRANCHISE WITH AN ADDITIONAL FIVE YEAR RENEWAL TERM TO OPERATE WITHIN THE CORPORATE LIMITS OF THE CITY OF PAYETTE, IDAHO, GARBAGE COLLECTION SYSTEMS AND FACILITIES FOR SUPPLYING GARBAGE COLLECTION SERVICE TO THE CITY, THE INHABITANTS THEREOF, AND OTHERS; PROVIDING FOR DEFINITIONS; PROVIDING FOR MANDATORY SOLID WASTE COLLECTION; ESTABLISHING THE RIGHTS AND OBLIGATIONS OF THE FRANCHISEE AND THE CITY OF PAYETTE; ESTABLISHING THE METHODS OF COLLECTION OF SOLID WASTE; PROVIDING FOR PENALTIES; PROVIDING FOR A REPEALER CLAUSE; PROVIDING SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, this Ordinance is made pursuant to the authority granted to the City by Article XII, Section 2 of the Idaho Constitution and Idaho Code Section 50-344; and,

WHEREAS, the City Council also hereby adopts the Findings as stated by Mayor Williams on Aril 1, 2019. Sections 50-344 and 31-4403(6) provide that upon a finding by the mayor, for the public safety or necessary protection of public health, welfare and property, the provisions of section 50-344, Idaho Code shall not apply to solid waste collection. On April 15, 2019 the City Council agreed with the findings that substantiate and justify the need to avoid the competitive bidding process based upon the following reasons:

A. Such action is necessary because there is an Immediate need for the City to establish a reliable program for the collection, disposal and management of solid wasted within the City.

B. Such action is necessary because there is an immediate need to provide for safe and sanitary accumulation, collection, transportation, storage and disposal of solid waste.

C. Such action is necessary because there is an immediate need to prevent uncontrolled dumping of waste on public and private property.

D. Such action is necessary because there is an immediate need to prevent the unlawful storage, deposit or disposal on private property of wastes that are hazardous to the health and safety of the public, create offensive odors, create a condition of violation of any statute, administrative rule, ordinance, order or resolution or any provision thereof, or creates a fire hazard; and,

WHEREAS, the Payette City Council has authorized the Mayor to negotiate a contract with Hardin Sanitation, Inc. to be the franchisee to perform the solid waste services for both residential and commercial properties within the City of Payette, subject to the terms and conditions of the Franchise Agreement, Chapter 8.08 of the Payette Municipal Code and this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE PAYETTE CITY COUNCIL AS FOLLOWS:

Section 1. DEFINITIONS

For the purpose of this ordinance, the following terms have the meanings set forth herein:

A. "Commercial Customer(s)" shall mean those owners and/or occupants of commercial, light industrial, governmental and institutional uses, schools, all other businesses, and Multi-Family Residential Complexes consisting of three or more dwelling units, and those owners of new or remodeled construction sites and/or their agents.

B. "Franchise Agreement" shall mean the Agreement executed by Franchisee and the City of Payette for residential and commercial Solid Waste Collection for the term of the Franchise granted hereunder, and as subsequently amended.

C. "Franchisee" shall mean Hardin Sanitation, Inc.

D. "Hazardous Materials" shall mean any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State of Idaho to be "hazardous" as that term is defined by or pursuant to federal or state law.

E. "Multi-Family Residential Complex" shall mean a building or property containing three (3) or more dwelling units.

F. "Residential Customer(s)" shall mean those owner(s) and/or occupant(s) of single-family residences consisting of two or less dwelling units.

G. "Self-Hauling" shall mean the collection, hauling and disposal of Solid Waste, Recyclable Materials, Hazardous Materials or medical waste by generator or generator's agent of the Solid Waste, Recyclable Materials, Hazardous Materials or medical waste in the generator's or generator agent's container and vehicle directly to the landfill; provided, the generator's agent is not in the business of collecting, hauling and disposing of Solid Waste or Recyclable Materials.

H. "Solid Waste" shall mean any garbage, refuse or other discarded material generated by Residential and Commercial Customers that are not or cannot be recycled or diverted from the landfill.

Section 2. GRANT OF FRANCHISE

Pursuant to Idaho Code §50-329, the City of Payette hereby grants to the Franchisee the authority, right, privilege and exclusive franchise for a term of ten (10) years, with an additional five (5) year renewal term, beginning October 1, 2019, to engage in the business of collecting, transporting, processing and disposing of Solid Waste and recyclable materials kept or accumulated and placed for collection by all Residential

and Commercial customers within the corporate limits of Payette, Idaho, and to perform all of the work described in the Franchise Agreement; provided, however, this authority, right, privilege and exclusive franchise does not extend to the Self-Hauling of Solid Waste, Recyclable Materials, Hazardous Materials or medical waste. It shall be unlawful for any person or legal entity to engage in the business of Solid Waste and Recyclable Materials collection and transportation over and upon the public right-of-way within the City of Payette, except as otherwise provided herein.

Section 4. MANDATORY SOLID WASTE COLLECTION

No Residential or Commercial Customer shall be permitted to refuse to accept the Solid Waste collection services to be provided by the Franchisee in accordance with the Franchise Agreement. Residential and Commercial Customers shall not be exempt from the payment of a mandatory weekly minimum charge established for Solid Waste collection services in accordance with this Ordinance and the Franchise Agreement. Multi-Family Residential Complexes consisting of four or more dwelling units shall use container(s) provided by the Franchisee in excess of the 95-gallon roll carts, while Multi-Family Residential Complexes of three or less dwelling units may use 95-gallon roll carts for each dwelling unit.

Section 5. RIGHTS AND OBLIGATIONS OF THE FRANCHISEE AND CITY

A. The Franchisee shall have the right and privilege to use the streets, alleys and other public right-of-ways within the City of Payette, and to collect Solid Waste in accordance with this Ordinance and the Franchise Agreement.

B. The Franchisee shall collect all Solid Waste from Residential and Commercial customers within the City of Payette.

C. The City of Payette is responsible for maintaining the streets, its alleys and its public ways in a passable condition. If such streets, alleys and public ways are not passable, then the Franchisee shall be excused from not making a proper timely pickup of the Solid Waste.

D. The Franchisee shall make pickups only if the Solid Waste is placed within the public right-of-way at the edge of any pavement adjacent to a curb, in alleys or in a convenient location, on designated days as established by the Franchise Agreement.

E. The City of Payette shall charge all Residential customers located within the City limits standard monthly rates for collection and transportation of Solid Waste. The standard rates shall be established by resolution, filed with the City Clerk. If a residential customer is delinquent in payment to the City for solid waste services, City will follow the procedures for notification and termination of water service described in §13.04.250 of the Payette Municipal Code, as amended.

F. The Franchisee shall comply with all ordinances of the City of Payette and all laws of the State of Idaho, and shall follow strictly a procedure of operation as to be sanitary. Franchisee shall replace all containers upright where found with lids on them. The Franchisee shall not permit Solid Waste to be spilled during collection and shall be responsible for cleaning up and removing such spillage.

G. Franchisee and its agents and employees, shall not enter enclosed structures, such as garages, enclosed porches, sheds, buildings or otherwise for the purpose of collecting Solid Waste.

H. Unless otherwise provided in this Ordinance, the specific duties and obligations of the City of Payette and

Franchisee are more particularly described in the Franchise Agreement.

Section 6. DUTIES AND OBLIGATIONS OF RESIDENTIAL AND COMMERCIAL CUSTOMERS

A. Residential and Commercial Customers shall place all containers for collection of Solid Waste and Recyclable Materials within the public right-of-way at the edge of any pavement adjacent to a curb, in alleys or in a convenient location, while still allowing public access on the public right-of-way. The containers shall be placed adjacent to the Residential or Commercial customer's property or premises on designated days as established by the Franchise Agreement. The containers for Solid waste must be clearly visible to the Franchisee from the street or alley from which collection is made.

B. Residential and Commercial customers shall not permit any Solid Waste to be deposited or left in the public right-of-way or on private property, where the deposit of the Solid Waste was caused by the Residential or Commercial customer, or caused other than by the Franchisee's mishandling or spilling of Solid Waste. The Residential and Commercial customer shall be responsible for cleaning up and removing such deposit of Solid Waste.

C. The Residential and Commercial customers shall not place or permit to be placed any Hazardous Material in any container placed for collection of Solid Waste by Franchisee.

D. Residential and Commercial customers shall place containers for Solid Waste or Recyclable Materials for collection no later than 6:00 o'clock a.m. on the designated day of collection, but no sooner than the evening before the designated day of collection. Following collection by Franchisee the Residential and Commercial customers shall remove the

containers from the public right-of-way as soon as possible on the same day of collection.

E. No container used in the collection of Solid Waste shall be loaded beyond its volume or weight capacity, or in such a manner to be unstable or likely to cause damage or create litter.

Section 7. ANNEXATIONS

In the event the City of Payette annexes additional territory during the term of this Ordinance, the Franchisee shall have the exclusive authority and privilege to engage in the business of collecting, transporting, processing and disposing of Solid Waste, as described in Section 2 of this Ordinance, in the annexed territory for the remainder of the term of this Agreement.

Section 8. SEVERABILITY

If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

Section 9. REPEALER

Commencing on the Effective Date of this Ordinance, Payette Ordinance nos. 978,986, 1006, 1079, 1235 and 1253 are hereby repealed in their entirety and all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 10. PENALTY

Any person, firm or other legal entity violating any provision of Sections 2 and 5 of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars (\$300.00) or imprisonment in the county jail for a period not to exceed six (6) months, or both such fine and imprisonment. Each day such

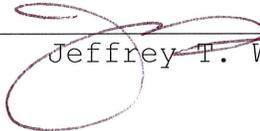
violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Section 11. EFFECTIVE DATE

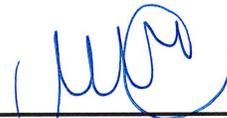
Except as otherwise provided herein, this Ordinance shall be in full force and effect beginning October 1, 2019 and after its passage, approval, and publication according to law. The rates adopted under Section 4(E) of this Ordinance for Solid Waste collection services shall be effective beginning October 1, 2019.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 5th day of August, 2019.

CITY OF PAYETTE, IDAHO

BY  _____
Jeffrey T. Williams, Mayor

ATTEST:



City Clerk