

ORDINANCE NO. 2498

AN ORDINANCE RELATING TO HEALTH AND SANITATION; PROVIDING FOR THE ESTABLISHMENT, MAINTENANCE AND OPERATION OF A SYSTEM OF REFUSE DISPOSAL; ADOPTING RULES AND REGULATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith AND PROVIDING PENALTIES AND ESTABLISHING THE EFFECTIVE DATE HEREOF BY THE DECLARATION OF AN EMERGENCY.

BE IT ORDAINED BY THE CITY OF BAKER, OREGON:

Section 1. Definitions:

(1) Refuse: The term "refuse" shall include garbage, rubbish, ashes, swill and all other putrescible and nonputrescible wastes except sewage, from all public and private establishments and residences.

(2) Garbage: The term "garbage" shall include putrescible wastes, except sewage and bulky wastes, including vegetable wastes, animal offal and carcasses of dead animals, but not including recognized industrial byproducts, and shall include all such substances from all public and private establishments and residences.

(3) Rubbish: The term "rubbish" shall include all non-putrescible wastes, except ashes, from all public, private establishments and residences.

(4) Swill: The term "swill" shall mean and include any refuse accumulation of animal, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing, in or storing of meat, fish, fowl, fruits and vegetables, except coffee grounds.

(5) Ashes: The term "ashes" shall include the solid waste products of coal, wood, and other fuels used for heating and cooking from all public and private establishments and from all residences.

(6) Person: The term "person" shall mean every person, firm, partnership, association, institution and corporation. The term shall also mean the occupant and/or owner of real premises within the City of Baker, Oregon.

(7) Council: The term "Council" shall refer to the City Council of the City of Baker.

8) City Manager: The term "City Manager" shall refer to the City Manager of the City of Baker.

(9) Contractor: The term "contractor" shall refer to the person or persons who is awarded by the City Council the exclusive right to collect, transport and dispose of refuse, for hire, within the City of Baker, Oregon. (As amended by Ord. No. 2589, 7/15/65)

Section 2. Containers:

It shall be the duty of every person in possession, charge, or control of any dwelling, flat, rooming house, apartment, trailer camp, hospital, hotel, school, club, restaurant, boarding house, or eating place, or in possession, charge or control of any shop, place of business, or manufacturer's establishment where refuse is created or accumulated, at all times to keep or cause to be kept portable containers of approved size, type and construction, and to deposit or cause to be deposited, said refuse therein.

Containers shall be strong, watertight, not easily corrodible, rodent-proof, insect proof, of not less than 20 and not more than 32 gallons capacity, and shall have tight fitting lids. When refuse is placed in or taken from the cans, the lids shall be promptly replaced. Containers shall be thoroughly cleaned from time to time to prevent any odor nuisance. Containers shall not be overloaded in such a manner that the covers may not be securely replaced. No container shall be loaded in such a manner as to exceed a weight of 75 lbs. Contractor shall not be required to remove any container which is excessively loaded so as to be unsafe to handle. Refuse shall be placed in such said containers and the area around the container shall be kept in a neat and sanitary condition.

Other suitable and sufficient numbers of containers for the collection of refuse may, with the approval of the City Manager, be used by hotels, restaurants, boarding houses, eating places, apartments, schools and hospitals, and in the business districts.

The use of any container, other than prescribed herein, or approved by the City Manager, shall be a violation of this Ordinance, and if such use is continued for a period of ten (10) days after the user thereof has been notified in writing, by the City Inspector of the violation, then such user shall be prosecuted in the Municipal Court for such violation.

(Section 2 amended by Ord. No. 2589, 7/15/65)

Section 3. Removal of Refuse:

It shall be unlawful for any person to burn, dump or in any manner dispose of refuse upon any street, alley, public place, trail, or stream, or private property, within the City of Baker, other than is herein provided. All persons shall promptly remove or

otherwise dispose of all refuse accumulated at the premises owned or occupied by such persons. Refuse shall not be allowed to be accumulated or maintained on any premises in

such manner so as to tend to create a fire, health, or sanitation hazard. The removal, or other permitted disposal of refuse, at least once each week, within the residential area, shall be prima facie evidence of compliance with this ordinance. Refuse from hotels, restaurants, boarding houses, eating places, apartments, schools and hospitals and in the business sections of the City of Baker shall be removed or otherwise disposed of as often as is necessary to comply with the terms of this ordinance.

The Municipal Court shall have jurisdiction to determine whether an accumulation of refuse tends to create a fire, health or sanitation hazard. If, in the determination of the Court, such a hazard is created, the owner and occupier, if different, of the premises shall be given notice by registered mail stating that, within 7 days from the date of receipt of said notice, said refuse must be removed and disposed of in a sanitary manner.

Such notice shall also state that if the owner or occupier fails to remove said refuse that the city shall proceed to remove the refuse and the cost of removal shall be a lien against the property. Furthermore such notice shall contain the statement that the owner or occupier in charge of the property may protest the action by giving notice to the City Manager within 7 days from the receipt of the notice.

If within the time fixed by this ordinance the refuse has not been removed the City Manager shall cause the necessary removal. The City Manager shall maintain an accurate record of the expense incurred by the city in removing the refuse and shall include therein an overhead charge of 10 per cent of the total cost for administration. The total cost, including the administrative overhead, shall thereupon be assessed to the property as hereinafter provided:

(1) A notice of the assessment shall be forwarded by registered mail, postage prepaid, to the owner or agent in charge of the property by the City Recorder. The notice shall contain:

- a) The total cost, including the administrative overhead, of the
- b) A statement that the cost as indicated will become a lien against
- c) A statement that if the owner or agent in charge of the property

notice.

(2) Upon the expiration of 30 days after the date of the notice objections to the proposed assessment shall be heard and determined by the council in its regular course of business.

(3) An assessment for the cost of the abatement as determined by the council shall be made by resolution of the council and shall thereupon be entered in the docket of city liens, and upon such entry being made, it shall constitute a lien against the property from which the nuisance was removed or abated.

(4) The lien shall be collected in the same manner as liens for street improvements are collected, and shall bear interest at the rate of 6 per cent per annum. Such interest shall commence to run 30 days after the entry of the lien in the lien docket.

(5) An error in the name of the owner or agent in charge of the property shall not void the assessment nor will a failure to receive the notice of the assessment render the assessment void, but it shall remain a valid lien against the property.

Waste paper, boxes, brush, leaves, grass, wood and cuttings from trees, lawns and gardens may be burned in outside fireplaces, incinerators or in open fires but no person shall make or cause a fire to be made on any improved street or alley within the City of Baker, or make or cause to be made any open fire on any street, alley, lot or other flammable material as to be dangerous to life or property, nor shall any outside fire be made within the City of Baker, without first obtaining the consent of the Fire Chief; no person shall burn or cause to be burned refuse that will emit an offensive odor within the vicinity.

The use by any person of a garbage disposal unit, interior incinerator, fireplace or other proper method of disposal of property items of refuse which may be safely and sanitarily disposed of in such manner shall not be in violation of this ordinance.

Any person removing or transporting refuse shall convey the same in such a manner that no refuse will fall out or be scattered upon any street, alley, public place or upon private property within the City of Baker. In the event any refuse does fall out and becomes so scattered, the same shall be immediately cleaned up and removed by the person transporting the said refuse. (Section 3 as amended by Ordinance 2687 passed May 28, 1974.)

Section 4. Separation of Swill:

The City of Baker reserves the right to and may have the option to require the separation of paper or swill or other component parts of refuse and may require the deposit thereof in separate cans or receptacles.

Section 5. The Handling of Swill:

Except as provided herein, it shall be unlawful for any person, firm or corporation conducting any hotel, restaurant, or any public eating place to deposit, throw or place swill or other refuse food matter in a lane, alley, street, or other public place, or to deposit, throw or place any swill upon any trail or stream or private property other than that of the person, firm or corporation as provided herein. Swill shall be enclosed in vessels or tanks of a type approved by the City Manager and shall be

kept perfectly watertight and shall have tightly fitting covers, which covers shall not be removed except when absolutely necessary for the depositing and removal of swill. Such vessels or tanks shall be kept in the rear of the premises or in the basement, or other place authorized by the City Manager, so as to be readily accessible for collection, and shall not be kept upon the street, alley, or sidewalk or public place. No person, except for the purpose of depositing or removing swill, shall in any manner interfere with said vessels or tanks or with the contents thereof.

Section 6. Transportation and Disposal of Refuse:

All refuse, not otherwise disposed of as herein provided, shall be transported, either by the owner and/or occupant of the premises where the same accumulates, or by the contractor, to a sanitary landfill, to be established by the contractor, under the rules and regulations of the Council, and shall be deposited therein by means and methods specifically approved by the State Board of Health and the Council. Said method or methods shall include the maximum practicable rodent, insect and nuisance control at the place of disposal and provide further that animal offal and carcasses of dead animals shall be buried, cremated or rendered in such a manner as is approved by the City Manager.

No other person, firm, or corporation, other than contractor, shall collect, transport or dispose of refuse, for hire, within the City of Baker, Oregon, excepting that any person engaged in the rendering of meat scraps, animal offal and carcasses of dead animals and similar matter within the City of Baker. (As amended by Ord. No. 2530, 3/31/60)

Section 7. Collection and Transportation of Refuse, for Hire, and Operation of Landfill:

The exclusive right to collect and transport refuse, for hire, from the residents of the City of Baker, Oregon, and dispose of said refuse in the Sanitary Landfill, and to operate the Sanitary Landfill shall be awarded by the City Council, by resolution, from time to time, as necessary, any such award shall not exceed ten (10) years, and be upon such terms and conditions as shall be acceptable to the City Council, and according to such rules and regulations as shall be adopted by the City Council for the regulation of the collection and transporting of refuse and operation of the Sanitary Landfill.

The authorized contractor, prior to operating under any such award, shall furnish and deposit with the City, subject to the approval of the City Manager, evidence of public liability insurance in amounts not less than those set forth by Oregon Revised Statutes for the limits on local governmental unit tort liability, together with a personal or corporate surety bond in the sum of not less than One thousand five hundred dollars (\$1,500.00) with the contractor as principal, conditioned that he will faithfully perform according to the award and pay all labor, mechanics,

materialmen, and suppliers who shall supply said contractor with provisions, equipment and supplies or perform labor on any such contractor's equipment used in performing said award. (Section 7, as amended by Ord. No. 2589, 7/15/65 and as amended by Ord. No. 2754, 12/13/77)

Section 8. Award - Termination- Non-Assignability:

Every award given under the provisions of this ordinance may be terminated by the City of Baker upon sixty (60) days written notice on condition, however, that the City may purchase all equipment used in connection with the collection and transportation of refuse and the operation of the sanitary landfill at a fair value, and if the parties cannot agree upon such fair value, then the same shall be determined by a board of arbitrators, one to be appointed by the contractor, one by the City and the third by the two thus

appointed, with the majority decision of such board to be binding upon both parties. The cost of such arbitration to be paid equally by the City and the contractor. Furthermore, such award may not be assigned or transferred without first receiving the formal consent of the Council. The Contractor, under such award, and with the permission of the Council may subcontract certain portions of said operations, and the subcontractor shall be bound by the terms of the award, and the rules and regulations adopted by the City Council, and the sub-contractor shall gain no independent right by virtue of the sub-contract. (Section 8 as amended by Ord. No. 2589, 7/15/65)

Section 9. Compensation:

As compensation for the right and privilege of having the exclusive right to collect and transport refuse from the residents of the City of Baker, for hire, and to operate a sanitary landfill, for hire, within the City of Baker, Oregon, the contractor shall pay the City the sum of Fifty dollars (\$50.00) per month during the full term of such award, or until it is sooner terminated. The payment for each month shall be made on or before the tenth day of the following month. (Section 9, as amended by Ord. No. 2589, 7/15/65)

Section 10. Regulations: Landfill Site:

The Council, by resolution, shall establish rules and regulations for the collection and transportation of refuse and for the operation of the sanitary landfill. The Council shall, from time to time, by resolution, establish the official landfill site for the depositing of refuse, which, at the present time, is hereby officially designated as the presently existing sanitary landfill site. It shall be unlawful for any person to dispose refuse, except as otherwise permitted herein, at any other place within the City of Baker, Oregon, than at the official sanitary landfill. (Section 10, as amended by Ord. No. 2589, 7/15/65)

Section 11. Charges:

Charges to be made by the contractor for collecting and transporting and from persons depositing refuse at the official sanitary landfill shall be established by the Council, from time to time, by resolution. Upon sufficient showing by the contractor, or the residents of the City of Baker, the charges may be amended from time to time by resolution of the Council. (Section 11, as amended by Ord. No. 2589, 7/15/65)

Section 12. City Empowered to Collect and Transport Refuse and to Operate a Landfill Site:

The City of Baker is hereby empowered to carry out all the terms and provisions of this ordinance and to dispose of refuse in the manner provided herein. However, it shall not exercise such power if the contractor is faithfully performing under the terms and conditions of the award and observing the established rules and regulations pertaining to

the same, unless the City purchases contractor's property as provided in Section 8. If the contractor does not faithfully perform in accordance with the award and the established rules and regulations and such award is terminated by the City, this shall not obligate the City to purchase contractor's property. (Section 12, as amended by Ord. No. 2589, 7/15/65)

Section 13. Repeal of Ordinances:

Any and all ordinances or parts of ordinances in conflict herewith be and the same are repealed and any other ordinance in conflict herewith is amended according to the terms hereof.

Section 14. Penalty:

Any person violating any of the provisions hereof shall be deemed guilty of a misdemeanor and upon conviction thereof in the Municipal Court shall be fined in a sum not exceeding one hundred dollars (\$100.00) or by imprisonment in the City Jail for not more than thirty days or by both such fine and imprisonment.

Section 15. Severability Clause:

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 portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

Section 16. Emergency Clause:

Inasmuch as the object of this ordinance will be of great benefit to the City of Baker, there is and exists an urgent necessity that this ordinance shall take effect as soon as possible in order to protect the health, peace and safety of its inhabitants, and an emergency is declared to exist and this ordinance therefore shall be in full

force and operation immediately after its passage by the Council and approval by the Mayor.

Passed by the Council of the City of Baker the 22nd day of June 1959.

Approved by the Acting Mayor of the City of Baker the 22nd day of June 1959.