

ORDINANCE NO. 2595

AN ORDINANCE IMPOSING A BUSINESS TAX UPON ALL PERSONS, FIRMS OR CORPORATIONS COLLECTING, TRANSPORTING AND DISPOSING OF REFUSE, FOR HIRE, WITHIN THE CITY LIMITS OF THE CITY OF BAKER, OREGON, WHO ARE NOT AUTHORIZED TO DO SO UNDER THE PROVISIONS OF ORDINANCE 2498: REGULATING EQUIPMENT, PROVIDING PENALTIES AND ESTABLISHING THE EFFECTIVE DATE HEREOF BY THE DECLARATION OF AN EMERGENCY.

WHEREAS, by the provisions of Ordinance No. 2498, the business of collecting, transporting and disposing of refuse, for hire, has been made an exclusive franchise to be awarded by the City from time to time; and,

WHEREAS, the United States of America awarded the bid for the collection, transportation and disposal of refuse originating within Air Force installations within the City limits of the City of Baker to an individual who is not authorized under the provisions of Ordinance No. 2498 to conduct said business within the City Limits of the City of Baker, Oregon, and in connection therewith, the United States has secured a temporary injunction against the City of Baker in its efforts to enforce the provisions of said ordinance, and in consequence thereof, has raised the question as to whether or not the City of Baker has the right to require State and Federal installations within the City of Baker, Oregon, to use the services of those authorized under Ordinance No. 2498 to conduct said business; and,

WHEREAS, the franchised operator is required to pay the City of Baker a franchise fee for conducting said operation and any other person, firm or corporation who may be legally allowed to collect, transport and dispose of refuse for hire, contrary to Ordinance No. 2498 within the City Limits of the City of Baker, Oregon, enjoys certain privileges and rights provided by the City of Baker, now, therefore,

BE IT ORDAINED BY THE CITY OF BAKER, OREGON:

Section 1. Imposing Business Tax: That any person, firm or corporation, collecting, transporting and/or disposing of refuse, for hire, within the City Limits of the City of Baker, Oregon, who is not so authorized to do so by the provisions of Ordinance No. 2498 of the City of Baker, but is otherwise legally allowed to do so, by virtue of higher authority than that of the City of Baker, is hereby taxed the sum of ten per cent (10%) of the gross revenues collected by said operation from refuse collected, transported or disposed of within the City Limits of the City of Baker.

Gross revenue shall be computed by deducting from the total billings of such collectors all uncollectible items. Such tax shall be due for each calendar month, or fraction thereof, within ten (10) days from and after the close of such calendar month, or fraction thereof. Within ten (10) days after the termination of said collector's

operations within the City limits, compensation shall be paid for the period elapsing since the close of the last calendar month for which compensation has been paid.

Acceptance by the City of any payment due under this section shall not preclude the City from later establishing that a larger amount was actually due, or from collecting the balance due thereon.

Such collector shall maintain accurate records of all accounts pertaining to the collection of refuse within the City of Baker. To determine the amount of compensation due the City, the City may inspect these books of accounts and other records at any time during business hours and may audit them from time to time and may require such collectors to make available all pertinent records for this purpose.

Section 2. Equipment Requirements: Vehicles used by such collectors shall have beds which are tight and have high sideboards and/or covered tarps to eliminate any nuisance caused by refuse or fluids originating in the vehicle falling or dripping onto the streets, alleys or other public rights-of-way. Failure to provide suitable cover for such vehicles and the allowing of refuse to escape therefrom shall be in violation of the terms of this ordinance.

Section 3. Penalty: Any person violating the provisions hereof or failing to pay the tax, when due, shall be deemed guilty of a misdemeanor and upon conviction thereof in Municipal Court shall be fined a sum not exceeding \$100.00 or by imprisonment in the City jail for not more than twenty (20) days, or both such fine and imprisonment, and if such conviction is for failure to pay the tax due and owing the City of Baker, Oregon, such fine shall not be considered in lieu of the payment of said tax nor a credit thereon.

Section 4. Severability Clause: If any section, subsection, sentence, clause, phrase, word, 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 5. Emergency Clause: Inasmuch as the object of this Ordinance is necessary to the health, welfare and safety of the people of the City of Baker, Oregon, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Approved by the City Council and Approved by the Mayor this 14th day of February, 1966.