

ORDINANCE NO. 2702

AN ORDINANCE AMENDING CHAPTER 8.08 OF THE MOSES LAKE MUNICIPAL CODE ENTITLED "GARBAGE COLLECTION"

THE CITY COUNCIL OF THE CITY OF MOSES LAKE, WASHINGTON ORDAINS AS FOLLOWS:

Section 1. Chapter 8.08 of the Moses Lake Municipal Code entitled "Garbage Collection" is amended as follows:

8.08.025 Private Hauling Prohibited: Except where preempted by state law or pursuant to a written City contract or franchise as provided hereafter, no person may provide garbage, rubbish, refuse, solid waste, or other waste material collection or disposal services or residential recycling collection services.

8.08.057 Solid Waste Franchises:

- A. Persons holding a state Certificate of Public Convenience and Necessity within any areas annexed by the City and entitled to an exclusive municipal franchise following annexation under RCW 35A.14 are hereby granted an exclusive franchise as provided by law for a period of ten (10) years commencing at the effective date of annexation.
 1. The City may present a separate franchise document or contract for approval by any affected party, but failure of said party to sign or accept the same shall not delay the operation of this section, or the City may deem said failure to be a surrender or abandonment of all rights.
 2. The terms of this section shall form the basis for any franchise or contract for the collection, removal, and disposal of garbage, rubbish, refuse, solid waste, or waste material.
- B. Any party collecting garbage, rubbish, refuse, solid waste, or waste material in the City of Moses Lake pursuant to this section shall be subject to the following further conditions:
 1. The franchise shall not exceed the scope of permission as to kind of service, territory, or any other permission relating to the collection, removal, and disposal of garbage rubbish, refuse, solid waste, or waste material granted by any state Certificate of Public Convenience and Necessity that has been cancelled by operation of the laws in effect prior to the time of annexation.
 2. Rates shall be fair and reasonable. Compliance with the State of Washington Utilities and Transportation Commission (WUTC) approved rates for similar services shall be presumed fair and reasonable, but rates in excess of such rates shall be presumed to be not fair and reasonable. All rates are subject to review and approval by the City's Finance Director, guided by standards applicable to WUTC certified haulers.
 3. Service levels shall be adequate and sufficient to satisfy all customer needs. Service levels must be at least to the level currently provided within the City of Moses Lake. Such levels of service shall be presumed adequate and sufficient. Service not at such levels shall be presumed insufficient. All services are subject to review and approval by the City's Finance Director who shall consider WUTC policies and practices.
 4. The hauler shall be solely and separately responsible for all activities and shall never represent that it is an employer or agent of the City of Moses Lake.
 - a. The hauler must indemnify and hold the City harmless, its officers, agents, and employees from all loss or liability for the service provider's action in connection with the enjoyment of service privileges.

- b. The party shall be required to furnish evidence of insurance including naming the City of Moses Lake as an additional insured on insurance levels the City may reasonably require. An endorsement to the insurance policy shall also be required showing that the City has been named as an additional insured.

8.08.060 Container Regulations:

- A. It shall be the duty of every person in possession, charge or in control of any dwelling, flat, roominghouse, apartment house, or eating place or in possession, charge, or control of any shop, place of business, or manufacturing establishment at all times, to keep or cause to be kept, portable containers, carts, or garbage cans of approved size, type, and construction, and to deposit or cause to be deposited the refuse therein.
- B. Refuse or garbage containers shall not be filled with liquid or semi-liquid wastes. Such containers, carts, and cans shall be kept in a sanitary condition with the outside thereof clean and free from accumulative grease and decomposing material. Putrescible waste shall be placed in sealed bags prior to being placed in a cart, container, or can.
- C. For residential service every cart on the day designated for collection, shall be placed within five feet (5') of the traveled right-of-way and at least five feet (5') from any obstruction with the front facing the street or alley. Where alley access is available, meaning that the alley has sufficient height and width clearances for the collector of refuse's equipment to negotiate the alley without interference, all containers shall be placed at the alley line. Where no alley access is available, all containers shall be placed at the curb line on the day designated for collection and on all other days shall be removed from street view. For commercial service, accounts shall have their containers placed on a solid surface in a location accessible to the collector of garbage and refuse without its having to move the container up grades. Safety and maneuverability of the collector of refuse's vehicles shall be prime considerations, but not the only considerations, in determining accessibility. The Utility Account Technician, after consulting with the property owner if required, shall be the determiner of accessibility after conferring with the collector of garbage and refuse. If there is a dispute between the Utility Account Technician and the collector of garbage and refuse as to accessibility, the City Manager shall make the determination as to whether a location is accessible. The decision of the City Manager shall be final. Provided there is access to the container, the collector of garbage and refuse shall pick up all commercial accounts where the container is located whether the location is on private or publicly owned property.
- D. Each container, cart, or can shall be kept clean inside and out so that no odor nuisance shall exist. It shall be the responsibility of the person using any container, cart, or can to keep them clean unless this responsibility is altered by contract between the city and the collector of garbage and refuse. In such a situation, the contract shall control. The area around the containers shall be kept in a neat and sanitary condition. The Utility Account Technician may place tags on garbage containers found to be in violation of this subsection and notify the property owner when the areas around the container are not being kept in a neat and sanitary condition. All tags and notifications shall be dated and signed by the Utility Account Technician. Two (2) or more violations of this provision of this section shall subject the person responsible to the penalties described in Chapter 1.08 of this code.
- E. Those containers or cans found to be defective or illegal (defective bottoms, crushed so that lids will not fit, fifty-five (55) gallon barrels, waste baskets, paper drums, etc.) or any other containers that are found to be illegal shall be subject to impounding and/or disposal. If a container received two (2) violations within a thirty (30) day period, the Utility Account Technician of the city may authorize its destruction or impoundment.

The container or can shall be stored by the city not to exceed ten (10) days. If after ten (10) days the owner has not claimed and agreed to repair the illegal container or can, it will be disposed of by the city. The impoundment of an illegal container shall not relieve the owner from compliance with regulations in this chapter.

- F. No garbage or refuse cart, can, or container shall contain earth, rocks, or heavy refuse. Any cart, can or container requiring a person to lift it shall not exceed fifty (50) pounds in total weight of container and refuse.
- G. Customers must restrain vicious dogs beyond reach of the garbage containers, carts, or cans and prevent any interference with the pickup person on this account.
- H. Large, suitable containers for collection of garbage and refuse may, with the approval of the Utility Account Technician, be used in the business and commercial zones. Such containers shall be supplied by the collector of garbage and refuse if the collector of garbage and refuse is so required by his contract with the city, however, that does not preclude any person from owning their own container(s) if they so desire.
- I. Compactors for industrial and commercial users shall be designed to be compatible with local sanitation transportation equipment. The Utility Account Technician shall approve all compactors used for commercial or industrial uses.
- J. All carts, cans, containers, or compactors, shall comply with the Consumer Products Safety Commission laws and regulations. It shall be the responsibility of the account holder assigned any container, or compactor to load it so that it can be legally hauled on public highways by the contractor of garbage and refuse. Containers shall not be loaded heavier than five hundred (500) pounds gross per cubic yard of capacity and in no event more than two thousand (2,000) pounds.
- K. It shall be the duty of every person in possession, charge, or control of any dead animal or upon whose premises the same may be located, to forthwith cause the same to be removed and disposed of.
- L. No person shall place their garbage, rubbish, refuse, solid waste, or other waste material in the container or garbage can of another.
- M. Containers designated for residential use may not be used for any commercial purpose except as may be allowed by this chapter.
- N. It shall be the responsibility of each account holder or customer to manage the carts under their custody and control. The repair or replacement of all carts damaged, destroyed, stolen, or lost as a result of the negligence of the account holder or customer shall be billed to the account holder or customer.

Section 2. This ordinance shall take effect and be in force five (5) days after its passage and publication of its summary as provided by law.

Adopted by the City Council and signed by its Mayor on February 11, 2014.


Dick Deane, Mayor

ATTEST:


W. Robert Taylor, Finance Director

APPROVED AS TO FORM:


Katherine L. Kenison, City Attorney