

Sponsored by: Council Member Cleworth
Council Member Matherly
Introduced: March 21, 2016

ORDINANCE NO. 6007

**AN ORDINANCE AMENDING FAIRBANKS GENERAL CODE CHAPTER
14, ARTICLE IX COMMERCIAL REFUSE COLLECTOR**

WHEREAS, the City Clerk's Office strives to provide consistent and up-to-date services to Fairbanks residents through streamlined licensing procedures; and

WHEREAS, the content of Chapter 14, Article IX has not been amended for decades and is in need of updating; and

WHEREAS, the City Clerk reviews applications and issues licenses and permits to various types of occupations, businesses and individuals on a regular basis; and

WHEREAS, there is only one commercial refuse collector currently licensed with the City of Fairbanks whose license will expire on April 23, 2016; and

WHEREAS, the Clerk's Office is willing and able to determine whether an applicant has met the requirements for licensure or renewal without first bringing each application before the City Council for approval.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE
CITY OF FAIRBANKS, ALASKA, as follows:**

SECTION 1. That Fairbanks General Code Chapter 14, Article IX Commercial Refuse Collector is hereby amended as follows [new text in **underlined bold** font; deleted text in ~~strikethrough~~ font]:

Sec. 14-361. – License Rrequired; fee; duration.

(a) ~~Required.~~ No person shall operate as a commercial refuse collector in the city without first obtaining a refuse collector's license.

(b) ~~Fee, duration.~~ The fee for such license shall be as **License fees are** set forth in the city's schedule of fees and charges for services.

(c) Commercial refuse collector licenses will be valid for two years from the date of issuance unless revoked or suspended by the City Clerk's Office.

Sec. 14-362. - Application required.

Any person desiring to engage in business as a commercial refuse collector ~~will~~ shall make application for such license ~~to through the city clerk to the city council~~ upon forms furnished by the city **clerk**.

Sec. 14-363. - Contents of application.

- (a) The application for a refuse collector's license ~~must~~shall contain the following:
- (1) The date of the application.
 - (2) The complete legal name and address of the company to whom the license, if granted, is to be issued.
 - (3) The nature of the company under which the applicant intends to do business (sole proprietorship, partnership, association, corporation).
 - (4) The name and address of the owner of the company if a sole proprietorship; or the names and addresses of the partners or members if the company is a partnership or association; or the names, addresses and positions of the corporate officers if the company is a corporation.
 - (5) The exact name which the applicant will display upon the exterior of the vehicles to be operated under the license. The distinctive color scheme which the applicant intends to apply to the exterior of each vehicle to be operated under the license, including the color scheme of any lettering or numbers to appear on the exterior.
 - (6) ~~The year for which the license is sought.~~A current copy of the company's State of Alaska and City of Fairbanks business licenses.
 - (7) The location and phone number of the office from which the applicant intends to conduct its business ~~and also the business phone number at which said applicant can be contacted.~~
 - (8) The location of the garage or yard from which the vehicles will be operated~~are to operate upon the granting of a license.~~
 - (9) The number of vehicles which will be operated under the license; and the description, including the year, make, model ~~(year), VIN~~engine or serial number, state license plate number, and record owner, of each vehicle, ~~and the amount of bodily injury and property damage insurance coverage on each vehicle, the name of the insurer, and the insurance policy number.~~
 - (10) The amount of bodily injury, property damage, and uninsured motorist insurance coverage on each vehicle as outlined in section 14-364, the name of the insurer and the insurance policy number.
 - ~~(11)~~(10)A statement by the applicant ~~as to experience as a commercial refuse collector and a statement by the applicant that he has complied with such~~ applicable state certification requirements ~~as may be required by the state by and through the public utilities commission, which are currently embodied in AS 42.05.221 et seq., along with a certified copy of the certificate issued to~~ the applicant by the public utilities commission.
 - ~~(12)~~(11)A statement by the applicant that he agrees to submit to the city ~~clerk~~ Finance Department within ten days following the issuance of a commercial refuse collector's license, and on a quarterly basis for as long as the license remains in effect, a report containing the names and addresses of all commercial and residential customers within the city ~~presently being served by the applicant, and thereafter shall submit within ten days following the close of each month of operations under the license, a report of any additions to or deletions from such list of customers; a statement by the applicant that he will accept responsibility for payment to the city of all sales taxes due to the city on all payments made to the licensee for the services rendered by the licensee within the city and~~ The applicant must also affirm that it ~~statement that the applicant will maintain~~

adequate accounting records open to the city Finance Department for books of account pertaining to transactions conducted under and by virtue of the refuse collector's license, which books and records shall be open to the mayor for inspection, upon reasonable notification and request.

(132) A statement by the applicant that he will collect and charge such fees only for the collection and hauling of commercial garbage, rubbish and ashes as are authorized in the license; that the applicant will abide by all lawful rules, directives and orders ~~to be issued under and by virtue of this article;~~ and that the applicant will ~~use~~utilize the landfill area designated by the borough, and will pay upon such fees required as provided to dispose for purposes of disposing of all refuse collected under a refuse collector's license.

(b) The application ~~must~~shall be signedsubscribed by the applicant or, where proper, a partner or officer of the applicant; ~~shall set forth the capacity in which the subscriber acts; the name of the company for whom he acts; and, if a corporation, shall bear the corporate seal.~~

Sec. 14-364. – Vehicle registration and proof of insurance.

~~There shall be submitted with the a~~Applications for a commercial refuse collector license must include a copy of current vehicle registration and copies of policies of commercial liability or indemnity insurance providing coverage and protection against loss through personal injury or property damage arising from negligence covering the on the part of the owner or driver of all vehicles to be operated under the license; ~~s~~Such insurance ~~must~~to afford coverage in an amount not less than \$50300,000.00 for all personal injuries sustained in any one accident, coverage in the amount of \$50,000.00 for property damage arising out of any one accident, and \$100,000.00 for all persons injured or who died in any one accident caused by an uninsured motorist per person for personal injury sustained, as further limited by minimum coverage of \$100,000.00 for all personal injuries sustained in any one accident, and to also provide coverage in the amount of \$25,000.00 for property damage arising out of any one accident. Each policy ~~must~~shall further contain a clause, addendum or endorsement providing that the insurer or his local agent will give written notice of the cancellation, revocation, termination or expiration of that policy, such notice to be submitted to the city clerk not later than five days prior to such eventuality.

Sec. 14-365. – Written notice of changes requiredRecommendation to city council.

(a) Before changing minimum insurance requirements for commercial refuse collectors within the city, the city clerk will provide written notice to all existing licensees of the action which the city council proposes to take, and give licensees a reasonable amount of time in which to voice any objections.After completing his review of the application for a commercial refuse collector license and any reports submitted to him, the city clerk shall make his recommendation to the city council.

Sec. 14-366. - Approval of city council; issuance of license; non-transferability.

(a) Upon an applicant's compliance with the requirements of this article, the city clerk will issue a commercial refuse collector license to the applicant. Commercial refuse collector licenses are not transferrable or assignable.The city council shall take final action on all applications for a commercial refuse collector license submitted for a license, and may approve, modify, limit, deny or approve with restrictions or limitations attached, including designation of

~~service areas, each application thus submitted to it. Where approved by the city council, the city clerk shall issue a commercial refuse collector's license to the applicant under the seal of the city.~~

~~(b) Prior to approving any additional licenses for commercial refuse collection over those then in effect, or before approving any rate changes for commercial refuse collection, or before changing any of the terms and conditions respecting commercial refuse collectors within the city, the city council shall provide written notice, by certified mail, to all existing licensees of the action which it proposes to take, and give such existing licensees a reasonable time in which to voice any objections, such time not to exceed 21 days.~~

Sec. 14-367. - Effect of issuance.

The issuance ~~securing~~ of a commercial refuse collector's license ~~by an applicant shall in itself constitute an agreement with~~ by the applicant ~~the city to abide by this article and such license regulations as are promulgated by the city clerk and approved by the city council, and that~~ such applicant will haul refuse for any person in the city making application; for such service upon proper payment; or upon arrangements satisfactorily made for payment or compensation as provided in this article., ~~it being~~ The intention of this section is to make it incumbent upon all licensed commercial refuse collectors to respond to calls from any person in the city who desires the licensee's service except for just cause shown, and ~~thereupon to perform the service requested within a reasonable period of time, which shall be construed to be not more than three days~~ period. Failure on the part of a licensee to provide ~~so call and perform any proper service as outlined thus requested and authorized in this section will~~ shall be unlawful grounds for suspension or revocation.

Sec. 14-368. - Suspension, and revocation.

(a) A commercial refuse collector's license may be temporarily suspended or permanently revoked; ~~by action of the city clerk~~ by the city council; for any of the following occurrences:

- ~~(1) Breach of any condition, limitation or modification imposed by the city council in approving the application for license.~~
- ~~(12) Breach by the licensee of any covenant or agreement undertaken by the licensee under a commercial refuse collector's such license, and the breach by the licensee or of any of the terms and provisions of its currently effective tariffs on file with the city council.~~
- ~~(3) Delinquency in payment to the city of consumer sales taxes.~~
- ~~(24) Any false statement in the application.~~
- ~~(35) Violation of any of the provisions of this article, or of any applicable sections of chapter 66 or of any the license regulations.~~
- ~~(46) Failure to give regular service to customers.~~
- ~~(57) Failure to maintain minimum insurance requirements, as outlined provided in section 14-364.~~

(b) The city clerk will ~~the city council shall give due notice to~~ notify the licensee of a suspension or revocation of and shall hold a public hearing before suspending or revoking a license by certified mail. Upon such action, the licensee must immediately cease operation of the commercial refuse collection business. A suspension or revocation of a commercial refuse

collector license may be appealed to the city council by filing a written appeal with the city clerk within 30 days of the date of revocation or suspension.

~~Sec. 14-369. - Transferability.~~

~~A commercial refuse collector's license is nontransferable.~~

DIVISION 3. - REGULATIONS

Sec. 14-391. - Hauling of refuse within city.

(a) It ~~is~~shall be unlawful for any licensed refuse collector or other commercial refuse collector to transport refuse upon the streets of the city except in a covered, watertight, and drip-proof vehicle equipped with a metal box with welded seams; however, non-liquids and innocuous substances may be conveyed in suitable containers with appropriate coverings to safeguard against ~~any littering of the streets.~~

(b) Refuse-hauling vehicles ~~will~~shall be thoroughly washed or treated ~~regularly~~regularly daily so as to ~~maintain~~restore after use to a reasonably sanitary condition. No person ~~will~~shall operate a refuse collection ~~truck or refuse collection vehicle~~ within the business district of the city between the hours of 10:00 a.m. and 12:00 p.m. of each day. The business district is defined as that portion of the city encompassed and bounded on the north by First Avenue; on the east by Noble Street; on the south by Seventh Avenue; and on the west by Wickersham Street. ~~The mayor is authorized to issue to any licensed refuse collector a permit to operate within the business district when in the judgment of the mayor such authorization is deemed necessary and prudent.~~

Sec. 14-392. - Filing of tariffs.

Every licensee under this article ~~will~~shall file with the city ~~clerk~~council its complete tariff showing all rates, rentals and charges collected and all classifications, rules, regulations, and terms and conditions under which it furnishes its services and facilities to the public, together with a copy of every special contract with customers which in any way affects or relates to its rates, rentals, classifications, services or facilities. The licensee ~~will~~shall clearly print or type its complete tariff and keep an up-to-date copy of it on file at its principal business office. Tariffs ~~will~~shall be made available ~~for~~to and subject to inspection by the general public on demand.

Sec. 14-393. - Terms and conditions of services, facilities.

The terms and conditions under which each licensee ~~under this article~~ offers its services and facilities to the public ~~will~~shall be governed ~~strictly~~ by the provisions of its currently-effective tariffs. No properly filed and effective tariff rate, charge, rental, rule, regulation or condition of service ~~will~~shall be changed except as provided in this division. If more than one tariff rate or charge can reasonably be applied for billing purposes, the one most advantageous to the customer ~~will~~shall be used.

Sec. 14-394. - Just, ~~r~~Reasonable rates.

All rates demanded or received by a licensee for a service furnished or to be furnished under this article ~~will~~shall be just and reasonable. ~~When-If~~ the city ~~clerk~~council, after investigation ~~and hearing~~, finds that a rate demanded, observed or collected by a licensee for commercial refuse collection, or that classification, rule, regulation, practice or contract affecting the rate, is unjust, unreasonable, unduly discriminatory or preferential, the clerk will provide a report to the city council who will~~shall~~ determine the just and reasonable rate, classification, rule, regulation, practice or contract to be observed or allowed ~~and shall establish it by ordinance.~~

Sec. 14-395. - Fairness of rates; refunds.

(a) No licensee under this article may, ~~as to rates,~~ grant an unreasonable preference or advantage to any of its customers or subject a customer to an unreasonable prejudice or disadvantage. No licensee may establish or maintain an unreasonable difference as to rates, either between localities or between classes of service.

(b) No licensee ~~will~~shall directly or indirectly refund, rebate or remit ~~in any manner or by any device~~ any portion of the rates and charges, or charge, demand or receive a greater or lesser compensation for its services than is specified in its effective tariff. If a licensee desires to charge all its customers in a particular class of service a lesser amount than in its current tariff, it may do so immediately but must apply the reduction to all its customers in that class of service and immediately initiate action as specified in section 14-397 to revise its tariffs.

(c) No licensee may extend to any customer any form of contract, agreement, inducement, privilege or facility, or apply any rule, regulation or condition of service except such as are extended or applied to all customers under like circumstances.

(d) No licensee may offer or pay any compensation ~~for or consideration~~ or furnish the equipment to secure ~~the installation or the adoption of~~ the use of its service unless it conforms to a tariff approved by the city ~~council~~, and unless the compensation, ~~consideration~~ or equipment is offered to all persons in the same classification using or applying for the service. In determining the reasonableness of such a tariff filed by a licensee, the city ~~will~~shall consider, among other things, evidence of ~~consideration or compensation~~ paid by a competitor of the licensee to secure ~~the installation or adoption of~~ the use of the competitor's service.

Sec. 14-396. - Fairness in service.

No licensee under this article may, as to service, ~~make or grant~~ an unreasonable preference or advantage to any person or subject any person to an unreasonable prejudice or disadvantage. No licensee may establish, ~~or maintain~~ or provide an unreasonable difference in~~as to~~ service, either between locations or ~~as between classes of service,~~ but ~~Nothing~~ in this section prohibits the establishment of reasonable classifications of service, or requires unreasonable investment in facilities.

Sec. 14-397. - Change of rates, or service; ~~notice required.~~

(a) Except as provided in section 14-395, no licensee under this article may establish or place in effect any new or revised rates, charges, rules, regulations, conditions of service or practices

except after 45 days' notice to the public. Notice ~~will~~^{shall} be given to the city ~~clerk~~^{council} by filing with the ~~clerk's office~~^{city council} and keeping open for public inspection the revised tariff provisions which plainly indicate the changes to be made in the schedules then in force, and the time when the changes will go into effect.

(b) The notice to be given to the public shall be published in a newspaper of general circulation in the city ~~on at least two occasions. The first publication shall be not more than ten days after filing the notice is filed with the city clerk, and the second publication shall be not less than five days nor more than ten days before the new or revised tariff is to be considered by the city council.~~ If no public objection is filed within 15 days of the newspaper publication, the city clerk will approve the revised tariff provision. If any public objection is filed with the city clerk, the clerk will set a hearing date for the matter to be heard by the city council at the next regular meeting immediately following the close of the objection filing period. No such new or revised tariff shall be effective until it has been approved by the city clerk or the city council.

SECTION 2. That the effective date of this Ordinance shall be the 16th day of April 2016.

John Eberhart, City Mayor

AYES: Huntington, Matherly, Gatewood, Pruhs, Cleworth, Walley
NAYS: None
ABSENT: None
ADOPTED: April 11, 2016

ATTEST:

APPROVED AS TO FORM:

D. Danyielle Snider, CMC, City Clerk
Paul J. Ewers, City Attorney