

## ORDINANCE NO. 2009-52

**AN ORDINANCE** concerning annexation; annexing the Kegley Annexation area to the City of Yakima; maintaining the current zoning of the area; providing for notice to the WUTC of the City's intent to provide residential refuse collection and disposal service; assumption of the City's current indebtedness by properties in the Kegley Annexation area; and an effective date of December 20, 2009

**WHEREAS**, proceedings have been held in accordance with all applicable laws for the annexation to the City of Yakima of the Kegley Annexation hereinafter described; and

**WHEREAS**, the City duly filed a notice of intention with the state Boundary Review Board for Yakima County (BRB) for the Kegley Annexation. No request was submitted invoking BRB jurisdiction, therefore on October 14, 2009 the Kegley Annexation was deemed approved by the Board; and

**WHEREAS**, garbage and refuse collection within the Kegley Annexation area is presently being provided by Yakima Waste Systems, Inc., under authority issued by the Washington Utilities and Transportation Commission (WUTC) to both residential and commercial accounts and the City desires to provide such services to residential accounts only in accordance with RCW 35.13.280; and

**WHEREAS**, RCW 35.13.280 requires the City to grant Yakima Waste Systems, Inc., as the current WUTC-authorized provider of garbage and refuse collection and disposal service within the Kegley Annexation area, a franchise to continue such service to residential properties within the Kegley Annexation area for a term of not less than seven years after annexation becomes effective. Such franchise does not apply to garbage and refuse generated by commercial establishments because the City does not provide or contract for such service. The City understands that collection and disposal services to all commercial accounts within the City is now subject to and shall remain under the authority of the WUTC and that, pursuant to state law, Yakima Waste Systems, Inc., shall, under its WUTC authority, continue to provide garbage and refuse collection and disposal services to all commercial accounts within the City, including such accounts in the Kegley Annexation area; and

**WHEREAS**, RCW 35.13.280 requires the City to provide specific notice to the WUTC regarding the City's intent, pursuant to RCW 81.77.020, and subject to the provisions of RCW 35.13.280, to provide residential refuse collection and disposal service to the Kegley Annexation area; and

**WHEREAS**, pursuant to due and legal notice, the City Council held a public hearing on said annexation on November 17, 2009 and, as a result thereof, finds:

1. The annexation petition requirements of RCW 35.13.120 have been satisfied in that the owners of not less than sixty percent in value according to the assessed valuation for general taxation of the Kegley Annexation area.
2. The Kegley Annexation area should be annexed to the City of Yakima.
3. The Kegley Annexation area should retain its current zoning pursuant to the Yakima Urban Area Zoning Map and that such zoning and classification is in

accord with the Yakima Urban Area Comprehensive Plan, the General Plan of the City of Yakima.

4. The owners of the real property within the Kegley Annexation area should be required to assume their pro rata share of the existing indebtedness of the City of Yakima.
5. The needs of the City and community do require the hereinafter set forth zoning classification, and the highest and best use for said property is as hereinafter determined, NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF YAKIMA, WASHINGTON:**

**Section 1.** The property identified on the map attached hereto as Exhibit "A" and legally described in Exhibit "B", attached hereto and incorporated by reference herein, referred to below as the "Kegley Annexation," is hereby annexed to the City of Yakima, Washington.

**Section 2.** The owners of the real property within the Kegley Annexation area shall be required to assume existing indebtedness of the City of Yakima.

**Section 3.** The Kegley Annexation area is hereby zoned as it is currently zoned and depicted on the official zoning map for the unincorporated portion of the Yakima Urban Area which map is maintained in the Yakima County Planning Department and which map is incorporated herein by reference.

**Section 4.** The next regularly amended Zoning District Map prepared by and for the City of Yakima shall show the Kegley Annexation zoned and classified without change of zoning district but within the jurisdiction of the City of Yakima.

**Section 5.** The City Clerk is hereby authorized and directed to file a certified copy of this ordinance with the County Auditor of Yakima County and with the Board of County Commissioners of Yakima County, Washington, and to transmit a certified copy of this ordinance to the Washington Utilities and Transportation Commission to notify it of the City's intent, pursuant to § 81.77.020 RCW, and subject to the provisions of § 35.13.280 RCW, to provide residential refuse collection and disposal service to the Kegley Annexation area.

**Section 6.** The City Clerk is hereby authorized and directed to provide, as required by RCW 35.13.270, notification by certified mail that includes a list of the Assessor's Tax Parcel numbers of all properties within the Kegley Annexation, to the Yakima County Treasurer and Assessor at least thirty days before the effective date of the annexation.

**Section 7.** There is hereby granted to Yakima Waste Systems, Inc., in accordance with and for the term provided by RCW 35.13.280, an exclusive franchise to provide garbage and refuse collection and disposal service to residential properties within the Kegley Annexation area, in accordance with the specific terms of Ordinance Nos. 3220 and 3445 of the City of Yakima and in accordance with the terms of the Franchise Agreement attached to Ordinance No. 3220 (amended by Ordinance No 3445) of the City of Yakima. Such franchise does not apply to garbage and refuse generated by commercial establishments because the City does not provide or contract for such service. The City understands that collection and disposal services to all commercial accounts within the City is now subject to and shall remain under the authority of the WUTC and that, pursuant to state law, Yakima Waste Systems, Inc., shall, under its WUTC authority, continue to provide garbage and refuse collection and disposal services to all commercial accounts within the City, including such accounts in the Kegley Annexation area.

**Section 8.** This ordinance shall be in full force and effect thirty days after its passage, approval and publication as provided by law and by the City Charter.

**PASSED BY THE CITY COUNCIL** at a regular meeting and signed and approved this 17<sup>th</sup> day of November, 2009.

/s/ David Edler  
David Edler, Mayor

ATTEST:

/s/ Deborah Kloster  
City Clerk

Publication Date: November 20, 2009

Effective Date: December 20, 2009

Section 6 above is accepted by Franchisee this \_\_\_\_\_ day of November, 2009

Yakima Waste Systems, Inc.

By: \_\_\_\_\_

Signer's Name Printed: \_\_\_\_\_

Signer's Title: \_\_\_\_\_