

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the Columbia	)	
County Solid Waste Management Ordinance to	)	
Further Define Waste Disposal, Transport, and	)	ORDINANCE No. 2013-1
Storage Activities that are Exempt from the	)	
Franchise Requirement	)	

The Board of County Commissioners for Columbia County, Oregon, ordains as follows:

**SECTION 1. TITLE.**

This Ordinance shall be known as Ordinance No. 2013-1.

**SECTION 2. AUTHORITY**

This Ordinance is adopted pursuant to ORS 203.035 and ORS 459.085.

**SECTION 3. PURPOSE.**

The purpose of this Ordinance is to amend the Solid Waste Management Ordinance to further define waste storage, transport, and disposal activities that do not require a franchise. The amendments also create a process to allow for other activities to be exempted by the Board of Commissioners if certain criteria are met.

**SECTION 4. HISTORY.**

This matter came before the Columbia County Board of Commissioners (Board) on recommendation from the County Solid Waste Advisory Committee (SWAC). The SWAC proposed amendments to the County's Solid Waste Management Ordinance to address ambiguity over waste disposal activities that are allowed without a franchise license.

Following proper notice, the Board held a public hearing on the proposed amendments on February 20, 2013. Todd Dugdale, Director of Land Development Services, presented the staff report and SWAC's recommended amendments. The Board opened the public hearing and admitted oral testimony. The Board then closed the public hearing and continued their deliberations to March 6, 2013, leaving the record open for written evidence and testimony.

On March 6, 2013, the Board held a meeting on this matter, admitting the following into the record:

- Exhibit A, Legal Counsel's file, containing:
  - Notice of Public Hearing, dated January 30, 2013;
  - Affidavit of Publication;
  - Affidavit of Mailing; and
  - Board Communication from Todd Dugdale, dated January 29, 2013
- Exhibit B, Board Communication from Todd Dugdale, dated February 28, 2013, containing written comments from Leslie Kochan, DEQ, and Sally Ann Marson, SWAC; and
- Exhibit C, Letter from Kristan Mitchell, Oregon Refuse and Recycling, dated March 4, 2013.

Based on the written evidence submitted, the Board directed staff to conduct further research on approaches used by other jurisdictions. The Board continued the matter to April 3, 2013, leaving the record open for written testimony and evidence.

At its public meeting on April 3, 2013, the Board admitted the following written evidence and testimony into the record:

- Exhibit D, Board Communication from Todd Dugdale, dated March 20, 2013; and
- Exhibit E, Board Communication from Todd Dugdale, dated March 27, 2013.

The Board then reopened the record to oral testimony, at which time staff presented a revised recommendation. The Board received oral testimony from Bill Kessi, closed the hearing, and left the record open to April 10, 2013 for written testimony and evidence.

At its meeting on April 10, 2013, the Board admitted into the record Exhibit F, Email from Jeff Ingebrigtsen and Debbie Butler, dated April 8, 2013. The Board then closed the record and deliberated, providing feedback and direction to staff on the revised amendment proposal.

**SECTION 5. AMENDMENT AND AUTHORIZATION.**

The Board of County Commissioners hereby amends the Columbia County Solid Waste Management Ordinance as shown in Exhibit 1, attached hereto and incorporated herein by this reference.

**SECTION 6. SEVERABILITY.**

If for any reason any court of competent jurisdiction holds any portion of this Ordinance, including its attachments or any portion therein, to be invalid, and such holding is upheld on any appeal, such portion shall be deemed a separate, distinct and independent portion. Any such holding shall not affect the validity of the remaining portions.

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**SECTION 7. SCRIVENER'S ERRORS.**

Any scrivener's error in this Ordinance or its Attachment may be corrected by order of the Board of County Commissioners.

DATED this 22<sup>nd</sup> day of May, 2013

Approved as to Form

By: [Signature]  
Office of County Counsel

Recording Secretary

By: [Signature]  
Jan Greenhalgh, Recording Secretary

First Reading: May 8, 2013  
Second Reading: May 22, 2013  
Effective Date: August 20, 2013

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: [Signature]  
Henry Hermuller, Chair

By: [Signature]  
Anthony Hyde, Commissioner

By: [Signature]  
Earl Fisher, Commissioner

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**EXHIBIT 1**  
to Ordinance No. 1-2013

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The Board of County Commissioners amends the Columbia County Solid Waste Management Ordinance as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

**Section 1.05 Specific Definitions**

- (L) GENERATOR. The person who produces the solid waste, recyclable material or compostable material and places it for collection, transport and disposal.

*[ReNUMBER (L) through (HH) as (M) through (II).]*

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**Section 1.07 Persons and Agencies Exempted**

- (A) This ordinance shall not apply to:
- (1) Areas lying within the limits of any incorporated municipality.
  - (2) Federal or state agencies that collect, store, transport or dispose of such wastes or solid wastes of those persons who contract with such to agencies to perform service, but only as to the terms for collection or disposal service under the contract.
- (B) In addition to the exemption in subsection (A) of this section, and except as specifically provided elsewhere in this Ordinance or by state statute or Department of Environmental Quality regulations, Chapter IV to VII of this ordinance shall not apply to: agricultural operations and growing or harvesting of crops and the raising of fowls or animals:
- (1) The transportation and collection of a person's self-generated solid waste to a lawful disposal site, resource recovery facility or market. In the case of a non-owner occupied property, the solid waste is produced and owned by the occupant and not by the landlord, property owner, or agent of the landlord or property owner.
  - (2) A person who transports and disposes of waste created as an incidental part of regularly carrying on the business of a licenced auto wrecking business, a construction contracting business, a gardening or landscaping service, a septic tank pumping or sludge collection or disposal service, or a janitorial service which does not include primarily or solely accumulating or collecting solid waste created, generated, or produced by a property owner or occupant.
  - (3) The occasional removal of solid waste by a landlord from a residence when a tenant has moved from the residential premises and abandoned such solid waste.

- (4) Agricultural operations and growing or harvesting of crops and the raising of fowl or animals.
- (5) Hazardous waste as defined by ORS Chapter 466.
- (6) Persons who hold a valid waste tire storage or carrier permit pursuant to OAR Chapter 340.
- (7) The collection, transportation, and reuse of repairable or cleanable discards by private charitable organizations regularly engaged in this business or activity including but not limited to the Salvation Army, St Vincent DePaul, Goodwill and similar organizations.
- (8) The collection, transportation, and reuse of recycling or totally source separated recyclable materials or the operation of a collection center for totally source separated materials by a religious, benevolent, charitable, or fraternal organization that was not organized or operated for any solid waste management purpose.
- (9) The collection, transportation, or redemption of returnable beverage containers under that portion of ORS Chapter 459A and commonly known as the "Bottle Bill".
- (10) Any other activity that the Board of County Commissioners exempts, provided that the following requirements are met:
  - (a) Applicant shall obtain an application for exemption from the Administrator. A completed application and any required application fee shall be filed with the Administrator.
  - (b) The application shall be considered by the Board at a public hearing. The Administrator shall send written notice of the hearing to the applicant and affected franchisees or permittees at least fourteen (14) days prior to the hearing.
  - (c) The Administrator shall review the application for consistency with the criteria described, below, and shall provide a report and recommendation to the Board on whether to approve, approve with conditions or deny the application. The Administrator's report shall be available at least seven (7) days prior to the hearing.
  - (d) The Board shall approve, approve with conditions or deny the application based on the following criteria:
    - (i) The activity is consistent with the purposes, policies, and findings stated in Section 1.03 of this Ordinance.

- (ii) The exemption will not violate a franchise agreement executed under this ordinance and will not adversely affect the ability of the existing franchise holders or exemption holders to provide the required service.
- (iii) Any unnecessary or unreasonable hardships or practical difficulties can be relieved only by granting an exemption.
- (iv) The exemption will not be materially detrimental or have a substantial impact on service, consumer rates, or the franchisee or permittee of the service area or service.
- (v) The applicant has the necessary equipment and personnel to provide the service.
- (e) The Board's decision shall be by order or resolution and shall be mailed to the applicant and affected franchisees or permittees. The Board may impose conditions or limitations to an exemption to carry out the purposes and policies of this Ordinance. The Board may impose additional conditions on an existing franchisee/permittee in this regard. The Board's decision is final.

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#### **Section 4.01 Persons, Activities And Practices Regulated**

Except as provided in Section 1.07, it shall be unlawful for any person not franchised in accordance with the provisions of this ordinance to:

- (A) Store, collect, transport or dispose of any waste or solid waste for compensation within Columbia County, Oregon;
- (B) Store, collect, transport or dispose of any waste or solid waste generated by the person's tenant or lessee;
- (C) Create or maintain a disposal site, within Columbia County, Oregon; and
- (D) Create or maintain a transfer station within Columbia County, Oregon. This section does not apply to the creation or maintenance of the Columbia County Transfer Station and Household Hazardous Waste Facility.