

89-8

COLUMBIA COUNTY

SOLID WASTE ORDINANCE

Adopted on August 3, 1977

As Amended by:

Ordinance No. 89-8, on June 2, 1989

Ordinance No. 89-13, on October 4, 1989

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending)
the Solid Waste Management)
Ordinance)
_____)
ORDINANCE NO. 89-8

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

SECTION 1. AUTHORITY.

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

SECTION 2. TITLE.

This ordinance shall be known as Ordinance No. 89-8.

SECTION 3. PURPOSE.

The purpose of this ordinance is to amend Columbia County Solid Waste Management Ordinance to provide for a pass-through rate structure, regulate franchise fees, to provide for enforcement under Columbia County Ordinance 89-9, and to repeal any provisions in conflict herewith.

SECTION 4. AMENDMENT.

The Columbia County Solid Waste Management Ordinance is hereby amended to read as shown in Exhibit "A", which is attached hereto and incorporated herein by this reference.

SECTION 5. SAVINGS.

Except as expressly changed in Exhibit "A", the Columbia County Solid Waste Management Ordinance shall continue in full force and effect and all rights, obligations, franchises, rates, penalties and liabilities incurred, earned, created or established under the Solid Waste Management Ordinance shall be unaffected by this amendment.

SECTION 6. REPEALER.

To the extent of any inconsistency with the attached Exhibit "A", the Columbia County Solid Waste Management Ordinance which was adopted on August 3, 1977 and any amendment or amendments thereto, are hereby repealed.

SECTION 7. SEVERABILITY.

If any provision 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 remaining portions thereof.

SECTION 8. EMERGENCY CLAUSE.

This ordinance being immediately necessary to maintain the public health, safety and welfare, an emergency is declared to exist and this ordinance shall take effect on June 21, 1989.

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON THIS 21st DAY OF June, 1989.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: J. R. Patton
Chairman

By: May W. Dillard
Commissioner

By: Michael J. Keo
Commissioner

Attest:

Cherie Maylan
Recording Secretary

First Reading: 06-21-89
Second Reading: 06-21-89
Third Reading: n/a
Effective Date: 06-21-89

EXHIBIT "A"

COLUMBIA COUNTY SOLID WASTE
MANAGEMENT ORDINANCE

CHAPTER 1. GENERAL PROVISIONS

Section 1.01 SHORT TITLE. This ordinance shall be known as the "Solid Waste Management Ordinance; and may be so cited and pleaded and shall be cited herein as "this ordinance".

Section 1.02 INDEX.

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Section 1.03 PURPOSE AND POLICY To protect the health, safety and welfare of the people of Columbia County and to provide a coordinated solid waste management program, it is declared to be the public policy of Columbia County to regulate solid waste management and to:

- (A) Provide for safe and sanitary accumulation, storage, collection, transportation, disposal and utilization of wastes and solid wastes.
- (B) Prohibit accumulation of wastes or solid wastes on private property in such a manner as to create a public nuisance, a hazard to health or a condition of unsightliness to provide for the abatement of such conditions where found.
- (C) Develop a regional long-range plan to provide adequate disposal sites and disposal facilities to meet future demands.
- (D) Provide for a coordinated county-wide solid waste management plan in cooperation with federal, state and local agencies responsible for the prevention, control or abatement of air, water and ground pollution and prevention of litter.
- (E) Provide for and encourage research, studies, surveys and demonstration projects on developing more sanitary, efficient and economical solid waste management systems.
- (F) Provide for a coordinated solid waste management plan with cities within Columbia County and with other counties or cities should regional plans be developed.
- (G) Provide for cooperation and agreements between Columbia County and other counties involving joint or regional franchising of solid waste collection or disposal.

(H) Provide minimum standards for location and operation of disposal sites to protect adjacent or nearby residents.

(I) Encourage utilization of the capabilities and expertise of private industry in accomplishing the purposes of this ordinance.

(J) Promote energy and resource conservation through reduction, reuse, recycling and resource recovery.

Section 1.04 GENERAL DEFINITIONS. For the purpose of this ordinance, words used in the present tense include the future, the singular number includes the plural, the word "shall" is mandatory and not directory and the term "this ordinance: shall be deemed to include all amendments hereafter made to this ordinance.

Section 1.05 SPECIFIC DEFINITIONS.

(A) ADMINISTRATOR. The person designated by resolution of the Board to administer this ordinance and the duly authorized deputy or assistant of such person.

(B) BOARD. The Board of Commissioners for Columbia County, Oregon.

(C) COLLECTION SERVICE. Collection and transportation of Solid Waste from its source to a transfer station, resource recovery facility, or disposal site by any person for compensation.

(D) COLLECTION VEHICLE. Any vehicle used to collect or transport solid waste.

(E) COMMITTEE. The Solid Waste Advisory Committee created pursuant to this ordinance.

(F) COMPENSATION. Any direct or indirect payment made by the source of generation or person last using a source separated material or discarded solid waste.

(G) DISPOSE OR DISPOSAL. Includes deposit, accumulation, storage, collection, transportation and disposal of solid wastes.

(H) DISPOSAL SITE. Land used for the disposal or handling of solid waste, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, incinerators for solid waste delivered by the public or by a solid waste collection service, and composting plants; but the term does not include a facility subject to the permit requirements of ORS 468.740 or a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar non-decomposable material, unless the site is used by the public either directly or through a solid waste collection service.

(I) FRANCHISE. A franchise to provide service issued by the Board pursuant to this ordinance.

(J) FRANCHISE, COLLECTION. A franchise to store, collect or transport solid waste.

(K) FRANCHISE, DISPOSAL. A franchise to create or maintain a disposal site.

(L) HAZARDOUS SOLID WASTE. Solid waste that may, by itself or in combination with other solid wastes, be infectious, explosive, poisonous, caustic or toxic or otherwise dangerous or injurious to human, plant or animal life.

(M) INCINERATOR. A combustion device specifically designed for the reduction, by burning, of solid, semi-solid or liquid combustible wastes.

(N) INOPERABLE VEHICLE. A vehicle which has been left on public or private property thirty (30) days or more and is not currently

licensed or has been extensively damaged, vandalized or stripped, including but not limited to missing wheels, tires, motor or transmission.

(O) MODIFIED LANDFILL. A disposal site operated by means of compacting and covering solid waste at specific designated intervals, but not each operating day.

(P) PERSON. Means and includes individuals, corporations, associations, firms, partnerships and joint stock companies.

(O) PUTRESCIBLE MATERIAL. Organic materials that can decompose and may give rise to four smelling, offensive products.

(R) RECYCLE/RECYLING. A process by which source separated materials are transformed into new products in such a manner that the original products may lose their identity.

(S) REGULATIONS. Regulations promulgated by the Board pursuant to this ordinance.

(T) RESOURCE RECOVERY. The process of obtaining useful material or energy resources from solid waste and includes:

(a) Energy recovery, which means recovery in which all or part of the solid waste materials are processed to utilize the heat content, or other forms of energy from the material.

(b) Material recovery, which means any process of obtaining from solid waste, by presegregation or otherwise, materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose.

(U) REUSE. The return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(V) RULES. Rules promulgated by state agencies pursuant to Chapter 459 of the Oregon Revised Statutes or any successor thereto.

(W) SALVAGE. A utilization process involving the separating or collection of re-usable solid or liquid wastes for resale or the utilization business of separating or collecting and reclaiming re-usable solid or liquid wastes, and the term includes but is not limited to, secondhand dealers, junk dealers, and salvage operators; however, the term does not include:

(1) The business of dismantling motor vehicles licensed pursuant to ORS 481.345.

(2) Activities for which certificates are required by ORS 433.405 to 433.680 dealing with furniture and bedding.

(X) SANITARY LANDFILL. A disposal site operated by means of compacting and covering solid waste at least once each operating day.

(Y) SALVAGE SERVICE. Collection, transportation and storage of source separated materials by any person for compensation.

(Z) SERVICE AREA. The geographical area in which service, other than operation of a disposal site, is provided by any person.

(A1) SOLID WASTE. Any solid or semi solid material including garbage, refuse, rubbish and trash which is unwanted or discarded by the last user or source of generation and is intended for disposal at a transfer station, resource recovery facility or disposal site or is illegally stored or deposited so as to create a public nuisance pursuant to this ordinance; but does not include:

(a) Environmentally hazardous waste as defined by ORS 459.410 (6) and ORS 459.410 (7);

(b) Animal wastes used for fertilizer or land in agricultural operations

and the growing or harvesting of crops and the raising of fowl or animals;

(c) Explosives; and

(d) Source separated material.

(A2) SOLID WASTE COLLECTION SERVICE. The collection, transportation or disposal of solid wastes or salvage material.

(A3) SOLID WASTE MANAGEMENT. The management of the accumulation, storage, collection, transportation, treatment, processing and final disposal or utilization of solid waste and facilities necessary or convenient to those activities.

(A4) SOURCE SEPARATION OR SEPARATED. The separation of reusable or recyclable materials from solid waste by the person who last used the separated material. For purposes of this ordinance, source separated material excludes industrially or commercially produced salvage materials not normally handled by the franchised collector. (i.e., fats for rendering, chemical by products, wood products, wood waste, pulp sludge, etc.)

(A5) TRANSFER STATIONS. A fixed or mobile facility normally used as an adjunct of a Solid Waste Management System between a collection route and disposal site including but not limited to a stationary compaction drop box facility, processing center, railroad, gondola, barge or facility that accepts solid waste from persons for the purpose of removal of the solid waste to a disposal site or utilization center.

(A6) UTILIZATION. The term utilize, or utilization of waste through recycling, reuse, salvage, resource recovery, energy recovery or land filling for reclamation, habitation or rehabilitation of land.

(A7) WASTE. Useless or discarded materials.

Section 1.06 ADMINISTRATION. The administrator, under the supervision of the Board and with assistance of the Committee, shall be responsible for the enforcement of this ordinance. In order to carry out the duties imposed by this ordinance, the Administrator shall enter or authorize personnel to enter on the premises of any person regulated by this ordinance at reasonable times and in a reasonable manner to determine compliance with this ordinance and regulations promulgated pursuant thereto.

Section 1.07 PERSON 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 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, 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.

CHAPTER II. SOLID WASTE ADVISORY COMMITTEE.

Section 2.01 SOLID WASTE ADVISORY COMMITTEE. There is hereby created a Solid Waste Advisory Committee.

(A) The committee consisting of five members to wit:

- (1-3) Three members at large.

- (4-5) Two franchisees or representative of such franchisees.
- (B) As ex-officio members of the committee without vote to advise and assist:
- (1) Member of the Columbia County Park Commission
 - (2) County Extension Agent
 - (3) Representative of the State Department of Environmental Quality
 - (4) Oregon Sanitary Service Institute

Section 2.02 APPOINTMENT OF SOLID WASTE ADVISORY COMMITTEE.

- (A) Members, ex-officio members and advisors shall be appointed by the Board. The Board may appoint additional persons to the Committee in these categories. The Board may appoint or approve designation of alternates to serve in the absence of persons appointed to the Committee.
- (B) Appointment shall be for staggered terms on the initial Committee not to exceed three year terms. Subsequent appointments shall be for three year terms. Members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the Board for the balance of the unexpired term.
- (C) The Committee shall appoint one of its members as Chairman and another as Vice-Chairman, both of whom shall meet at such times as deemed necessary or as called by the Board. The Chairman, Administrator or any two members of the Committee may call a special meeting with ten days notice to other members of the Committee; provided, however, that members may waive such notice.
- (D) Three members shall constitute a quorum for the transaction of

business. A majority vote of those present and voting is required to pass motions.

Section 2.03 DUTIES OF THE SOLID WASTE ADVISORY COMMITTEE. In addition to other duties prescribed by this ordinance the Committee:

- (A) Shall make an annual report to the Board containing recommendations on development and implementation of a solid waste management plan and any necessary regulations or amendments to this ordinance.
- (B) May, in consultation with responsible public officials and with persons providing service:
 - (1) Develop and periodically review a solid waste management plan including reduction of solid waste, reuse, recycling, regional disposal sites, and necessary systems and facilities to implement the plan for review, adoption or modification by the Board.
 - (2) Develop and recommend to the appropriate agency or the Board, minimum standards for location and operation of disposal sites including, but not limited to protection of adjacent or nearby residents.
 - (3) Develop and recommend to the Board for adoption minimum standards and regulations for the operation of salvage service and recycling centers including but not limited to franchising or licensing requirements.
- (C) Shall perform such other duties as directed by the Board or as the Committee may find necessary to effectively carry out the purposes of this ordinance.

Section 2.04 REGIONAL SOLID WASTE COMMITTEE. The Board may appoint one or more members of the Committee to serve on any regional solid waste committee to advise the Board.

CHAPTER III. REGULATIONS OF SOLID WASTE MANAGEMENT.

Section 3.01 REGULATIONS OF SOLID WASTE MANAGEMENT. Upon its own motion or upon recommendations of the Committee, the Board may adopt ordinances, resolutions or orders regulating solid waste management or implementing this ordinance. Such regulations shall not conflict with Chapter 459 of the Oregon Revised Statutes and rules promulgated pursuant thereto.

CHAPTER IV. FRANCHISING OF SOLID WASTE COLLECTION, DISPOSAL AND TRANSFER.

Section 4.01 PERSONS, ACTIVITIES AND PRACTICES REGULATED.

- (A) It shall be unlawful for any person to store, collect, transport or dispose of any waste or solid waste within Columbia County, Oregon unless such person is franchised in accordance with the applicable provisions of this ordinance.
- (B) It shall be unlawful for any person to create or maintain a disposal site, within Columbia County, Oregon, unless such person is franchised in accordance with the applicable provisions of this ordinance.
- (C) It shall be unlawful for any person to create or maintain a transfer station within Columbia County, Oregon unless such person is franchised in accordance with the applicable provisions of this ordinance.

Section 4.02 APPLICATIONS FOR FRANCHISES.

(A) APPLICATIONS. Applications for franchises shall be on forms provided by the Administrator. In addition to information required on the forms, the Board may require the filing of special guarantees and indemnities and any additional information it deems necessary to insure compliance with this Ordinance.

(1) Applicants for collection franchises shall state the types of service to be provided, and shall supply information required to determine compliance with Section 4.04 of this ordinance.

(2) Applicants for disposal franchises shall file a duplicate copy of the information required by the Department of Environmental Quality pursuant to Chapter 459, Oregon Revised Statutes.

(3) Applicants for transfer station franchises shall file a duplicate copy of the information required by the Department of Environmental Quality pursuant to Chapter 459, Oregon Revised Statutes.

(B) The applicant shall provide the Board with the following information:

(1) He has sufficient collection vehicles, equipment, land, facilities or personnel to meet the standards established by this ordinance and Chapter 459, of the Oregon Revised Statutes and regulations or rules promulgated thereunder.

(2) He has in force public liability insurance in the amount of not less than \$100,000 per person and \$300,000 per accident for bodily injury, and not less than \$100,000 for property

damage, which shall be evidenced by a certificate of insurance.

(3) He has good moral character or, if the applicant is a business entity, the principal partners or officers are of good moral character.

(4) He has sufficient experience in properly providing service of a comparable quality and quantity to insure compliance with this ordinance, and regulations promulgated thereunder and any franchise issued to him.

(C) The Board may require the applicant to submit a corporate surety bond in the amount of \$5,000 or 1/12 the estimated gross revenue to be derived from service annually, whichever is greater, guaranteeing full and faithful performance by the applicant of the duties and obligations of a franchisee under this ordinance. If the applicant is applying for both a disposal franchise and a collection franchise or collections franchises, the Board may permit this applicant to provide a single bond covering all such liabilities.

(D) Applicants shall specify the nature, type and extent of service to be provided and solid wastes that will not be accepted for collection or disposal; and, any special requirements for the handling of hazardous wastes.

Section 4.03 EXISTING DISPOSAL, COLLECTION AND TRANSFER STATION OPERATORS. Person who meet the applicable qualifications of this article and who are franchised under the previous ordinance and who were providing service on the effective date of this ordinance, shall have their franchise for the are they are were serving on the effective date of this ordinance.

Section 4.04 SPECIFIC COLLECTION FRANCHISE REQUIREMENTS. An applicant for collection franchise shall provide to the satisfaction of the Board that:

(A) He will use disposal sites authorized by the Board.

(B) He is either:

(1) Providing service in the service area for which he applies on the effective date of this ordinance and has a majority of service accounts in such service area, which shall be evidenced by a list of customers serviced and a map of the service area; or

(2) Applying for a service area that has not been franchised to another person, is not being served by the franchises after notice and a reasonable opportunity to do so or is not being adequately served by a franchisee and that there is a substantial demand for customers for a change in service to the area.

(C) He will, if applying for all or part of a service area franchised to another person pursuant to subsection (B) of this section, have available on the first day of such proposed service collection vehicles, containers or other equipment equal to that presently used in providing such service and that service would be equal to existing service.

Section 4.05 SPECIFIC DISPOSAL FRANCHISE REQUIREMENTS.

(A) An applicant for a disposal franchise shall submit to the Administrator a duplicate of the information submitted to the Department of Environmental Quality on such site under Chapter 459 of the Oregon Revised Statutes and rules promulgated thereunder.

(B) Each applicant shall supply a plan for rehabilitation and use of the site after disposal has been terminated and such use shall be a use permitted within the zone in which such land is located. Such plan shall be prepared at a scale of not less than one inch equals 400 feet with topographical contours, an interval of which shall be not less than 25 feet. At the discretion of the Administrator, Committee or Board, the applicant may be required to furnish a map showing greater detail to determine compliance with this ordinance and standards established by the Board. Amended plans may be submitted for approval in the same manner as initial plans.

(C) Where the land upon which a disposal site would be located is privately owned, the owner of the land and the franchise applicant shall, on forms furnished by the Administrator, jointly and severally agree to accept, to be responsible for or to be liable for:

- (1) The entry upon the subject premises by persons designated to administer this ordinance to determine compliance with this ordinance and performance of the obligations of the franchisee and the land owner.
- (2) Proper establishment, maintenance and operation of the disposal site as required by this ordinance and applicable provisions of Chapter 459 of the Oregon Revised Statutes and rules promulgated thereunder and other laws or county ordinances.
- (3) Rehabilitation or restoration of the site upon termination of disposal under the land use plan submitted pursuant to

subsection (B) of this section of any amendment thereto.

- (4) The entry upon the subject premises by person designated by the Board to properly establish, maintain, operate, rehabilitate or restore the site where the landowner or franchisee do not comply with their agreement executed pursuant to this subsection after written notice and a reasonable opportunity to comply as provided in subsection (B) of Section 4.02 of this ordinance.
- (D) The Board may order the filing in the county deed records of the agreements executed pursuant to this section as a recorded encumbrance on the real property to assure compliance with the conditions and agreements.

Section 4.06 SPECIFIC TRANSFER STATION FRANCHISE REQUIREMENTS.

- (A) Applicants for a transfer station franchise shall provide sufficient information to determine compliance with the requirements of this ordinance, the regulations promulgated thereunder and rules of federal, state or local agencies having jurisdiction.
- (B) Applicant shall specify the type of transfer site and the method to be employed for storing and transporting the waste and solid waste and the types of waste that will be accepted or rejected at the transfer station.
- (C) The applicant must show to the satisfaction of the Board that:
- (1) He has available land, equipment, facilities, and personnel to meet the standards established by this ordinance and Chapter 459, Oregon Revised Statutes and the rules and regulations promulgated thereunder.
 - (2) He has good moral character, or if the applicant is a firm

or corporation, that the principal partners or officers are of good moral character.

- (3) He has in force public liability insurance in the amount of not less than \$100,000 per person and \$500,000 per accident for bodily injury or death and not less than \$100,000 for property damage which shall be evidenced by a certificate of insurance.

Section 4.07 REVIEW OF APPLICATIONS FOR FRANCHISES.

- (A) Applications shall be reviewed by the Administrator, who shall make such investigation as he deems appropriate and who may request assistance of other persons as necessary.
- (B) The Administrator shall notify the holder of or an applicant for another franchise for any part of the service area under consideration or whose existing or proposed disposal site would reasonably be affected by the disposal site under consideration.
- (C) Unless the time is extended by the Board for good cause, the Administrator shall make his recommendation to the Committee within 30 days after the application and any required supplemental information has been filed.
- (D) The committee:
 - (1) Shall consider the application and the recommendation of the Administrator at the next regular meeting of the Committee or at a special meeting called for that purpose.
 - (2) May require additional investigation to be made or information to be filed either before or after the application hearing.

- (3) Shall, after written notice to interested person, call an evidentiary hearing to permit interested persons to testify orally or in writing.
- (4) Shall, after the evidentiary hearing and upon the basis of the application, any evidence received and the Administrator's recommendation, make findings of fact on whether (1) additional area should be included; (2) additional services should be provided; (3) additional equipment, facilities, land or personnel should be provided; (4) conditions should be imposed on disposal; and, with respect to disposal site, (5) the site may be integrated with existing private or public sites; and (6) the site is economically feasible.
- (5) Shall upon the basis of its findings, transmit its recommendations to the Board to grant, deny, modify or attach appropriate conditions to the application. The committee shall transmit such recommendations within 60 days from the date of the evidentiary hearing.

Section 4.08 BOARD ACTION ON APPLICATIONS FOR FRANCHISE. The Board:

- (A) May require additional investigation by the Administrator or the Committee if it finds that there is insufficient information on which to base its action.
- (B) Shall upon the basis of the application, the Administrator's recommendation, the Committee's findings of fact and such other information as is permitted by this ordinance and as is before the Board, affirm, deny, or modify the findings of the Committee and make an order granting, denying or modifying the application or attaching conditions thereto.

- (C) Shall not make an order adverse to the applicant or to the holder or applicant for another franchise effective less than 30 days after the date of such order and shall notify such persons in writing of the order. The Board may suspend operation of this subsection and enter an emergency order if it finds that there is an immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay.
- (D) Upon receipt of the Committee's findings of fact, the Administrator's recommendation, the Board shall publish notice of its intent to review the findings of fact and recommendation in an open meeting at least ten (10) days following receipt of said findings of fact and recommendation, but under no circumstances shall said publication be later than thirty (30) days following receipt of said findings of fact and recommendation. Written remonstrances may be made at said open meeting and the public notice shall contain information of that fact. Oral testimony shall not be received.

Section 4.09 EXCLUSIVE OR JOINT SERVICE UNDER A FRANCHISE.

- (A) If, with or without the recommendation of the Committee, the Board finds it to be in the public interest, the Board may issue a franchise for joint service with another person to provide service to a single customer, a group or type of customers, or for a particular type or quantity of solid waste. Where the Board finds that the applicant is able to provide service in the best interest of the public for all types within the defined service area, it shall issue an exclusive franchise for that area to the applicant.

(B) If a franchisee is unable to provide service for particular types or unusually large quantities of solid wastes:

(1) The Administrator may permit the franchisee to sub-contract such service to another person if he finds that the quality and extent of the service would not be jeopardized. The Administrator may require the filing of such information as he deems necessary. The administrator may request the recommendation of the Committee on the sub-contract.

(2) The Board may issue a temporary or permanent franchise to another person for the limited purpose of providing service to the customer or customers having such solid wastes.

(C) Upon recommendation of the Administrator and finding by the Board that the need for service justifies action before a complete investigation and final determination can be made, the Board may order the Administrator to issue a temporary certificate, valid for a stated period not to exceed six (6) months, entitling a person to serve a defined service area or customers.

Section 4.10 RESPONSIBILITIES OF FRANCHISEES.

(A) Except as provided in subsection (C) of this section, no franchisee shall voluntarily discontinue service to all or a substantial portion of his service area or at his disposal site or transfer station until he has:

(1) Given ninety (90) days notice to affected customers in his service area.

(2) Posted ninety (90) days notice at his disposal site.

(3) Given ninety (90) days written notice to the Administrator, and

- (4) Obtained written approval of the Board.
- (B) Where a franchisee is not serving a service area or portion thereof at the time of granting the franchise, the Board may order that service be provided at such time as it finds the service to be necessary and reasonable.
- (C) Subsection (A) of this section shall not apply to:
- (1) Change, restriction or termination of service when required by any public agency, public body or court having jurisdiction.
 - (2) Refusal to provide service to customers refusing to pay for service in accordance with rates established pursuant to this ordinance. Holders of collection franchises shall not discontinue service under this paragraph without seven (7) days prior written notice to the customer and to the Administrator. Where service has been refused to a customer for refusal to pay for service, the franchisee may require a reasonable deposit to guarantee payment for future services before reinstating such service.
 - (3) Transfer of franchises pursuant to Section 4.18 of this ordinance.
 - (4) Refusal of service to a customer upon reasonable grounds and with the approval of the Administrator upon a finding that service at the particular location would jeopardize the safety of the driver of a collection vehicle or the motoring public, that the customer has not provided reasonable access to the pickup point for the containers storing solid wastes without hazard or risk to the person providing

service or that weather conditions prevent service to the particular customer.

- (5) Subcontracts under collection franchises pursuant to Section 4.09 of this ordinance or to a subcontract to operate a disposal site where the Administrator has approved the subcontract after finding that the quality or extent of service would not be jeopardized. In making his determination, the Administrator may request a recommendation from the Committee, information he deems necessary to insure compliance and written approval of the owner of the land on which the site is located.
- (6) The holder of a transfer station franchise:
 - (a) Shall not voluntarily discontinue service without giving at least 30 days written notice of the proposed discontinuance of service to the Commission and to any franchisee using his transfer station and further receiving the approval of the Board prior to discontinuing said service. This subparagraph shall not apply to any other, foreclosure or restriction of use by any public agency, public body or Court having jurisdiction.
 - (b) Shall not contract with another person to operate the transfer station without giving written notice to an obtaining approval from the Board.
 - (c) May refuse service to any customer if the customer refuses to pay for this service in accordance with the rates established pursuant to this ordinance. A franchise holder who has discontinued service for refusal

of a customer to pay for such service may demand that the customer provide a reasonable deposit in advance to guarantee payment for future service prior to reinstating that service.

Section 4.11 ENFORCEMENT OF FRANCHISE PROVISIONS. In addition to the remedy provided in Section 4.12 and penalties provided elsewhere in this ordinance:

- (A) The Administrator shall, upon reasonable cause, make an investigation to determine if there is sufficient reason and cause to suspend, modify, revoke or refuse to renew a franchise as provided in this subsection.

If in the judgment of the Administrator, there is sufficient evidence to constitute a violation of this ordinance, Chapter 459 of the Oregon Revised Statutes, or the rules or regulations promulgated thereunder, the Administrator shall notify the franchisee in writing, by mail, return receipt requested, or by personal service as is provided by law for the service of a summons of the notice of violation and what steps he must take to cure the violation. The Administrator shall send a copy of the notice to the Committee and to the Board.

Ten (10) days following the receipt of notice of violation the Board shall enter its order of revocation, modification or suspension and shall thereby revoke, modify or suspend the violator's franchise, unless prior thereto the franchisee shall file with the Board his request for an evidentiary hearing on the Administrator's notice of violation. If said request is timely filed, revocation, modification or suspension will be

stayed until the Board can, at its earliest convenience, hold a public evidentiary hearing thereon. Notice of said hearing shall be given by publication of notice thereof at least ten (10) days prior to said hearing. The burden of proof at the evidentiary hearing held hereunder shall be upon the franchisee-appellant.

- (B) Should the franchisee fail to comply with the Board's order as issued pursuant to Section 4.11 (A), then the Board may take any steps authorized by law to enforce its order. All expenses incurred in enforcement of the Board's order, including reasonable attorney fees, may be recovered from the non-complying franchisee.

Section 4.12 PREVENTING INTERRUPTION OF SERVICE. Whenever the Board finds that the failure of service or threatened failure of service would result in creation of a health hazard or public or private nuisances, the Board shall, after reasonable notice but not less than twenty-four (24) hours notice, to the franchisee, hold a public hearing if the franchisee requests such hearing and have the right to authorize another franchisee or other person to provide service or to use and operate the land, facilities or equipment of the franchise holder through leasing to provide emergency service in the event of a serious interruption of service to all or to a class or group of customers so long as such interruption continues.

Section 4.13 FRANCHISE TERM AND RENEWALS.

- (A) Unless the Board finds that a longer or shorter term is required in the public interest, the term of collection franchises shall be ten (10) years.
- (B) The term for disposal franchises shall be determined by the

Board upon the basis of a recommendation by the Committee based upon site longevity, population to be served and probable use.

- (C) Unless grounds exist for refusal to renew a franchise under Section 4.11 or 4.12 of this ordinance, franchises shall be renewable. Application for renewal shall be made on forms provided by the Administrator. [Ordinance No. 89-8, Exhibit "A", Section 4.13(c); Ordinance No. 89-13, Section 4.]

Section 4.14 FRANCHISE FEES.

- (A) Franchise fees shall be in such amounts as are set by the Board.
- (B) Franchise fees shall be paid by the franchise holder in the following manner:
- (1) The annual fee shall be computed and paid to the Solid Waste Administrator, on forms provided by the Administrator, four times per year. Payments shall be made for three-month periods ending March 31, June 30, September 30, and December 31 of each calendar year. The payment for a quarter shall be due on the first day of the second month after the end of the quarter. The payments required for each quarter shall be based upon the gross receipts collected by the franchise holder during the quarter.
 - (2) An annual report and fee adjustment for a calendar year shall be submitted to the Solid Waste Administrator no later than April 15 of the next year. The annual report and fee adjustment shall be made on the form provided by the Administrator.
- (C) Every franchise holder shall maintain books and records disclosing the number and types of customers served and the gross receipts collected in the franchise area. These books and records

shall be open at reasonable times and places for audit by authorized personnel of Columbia County.

Section 4.15 USE OF FRANCHISE FEES. Franchise fees collected pursuant to Section 4.14 of this ordinance shall be paid into a solid waste management fund which shall be used in the manner and for the purposes determined by the Board. The Solid Waste Advisory Committee may make recommendations to the Board for the use of such funds to carry out the provisions of Section 1.03 of this ordinance.

Section 4.16 TRANSFER OF FRANCHISES. A franchisee may transfer his franchise, or a portion thereof, to other persons only upon written notice to, approval by the Board and after he Board has received a recommendation and finding by the Committee approving said transfer.

Upon recommendation and finding by the Committee, the Board shall approve the transfer if it finds that the transferee meets all applicable requirements met by the original franchise holder. The Board shall approve or disapprove any application for transfer of a franchise within thirty (30) days of receipt of notice by the Board. The Board may extend this time if it finds that there is a substantial question of the public health or safety involved which requires additional time for investigation and decision.

Upon a recommendation of the Committee, the Board may permit a franchise to be pledged as security for purchase of land, equipment or facilities needed to provide service or to finance purchase of a business providing service under this ordinance. The Board may attach whatever conditions it deems appropriate to guarantee maintenance of service.

4.17 FRANCHISE FEE CHANGES.

- (A) The committee may make a recommendation to the Board to change the annual franchise fee after meeting with franchise holders to discuss proposed changes.
- (B) Whether or not a recommendation is made by the Committee, the Board has the authority, by order or resolution, to change the annual franchise fees after a public hearing. Notice to the franchise holders shall be given at least ten (10) days prior to the hearing by certified letter. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.
- (C) Upon recommendation by the Administrator or upon its own recommendation, the Board, by order or resolution, may determine the percent of franchise fee change passed through to the customer by the franchise holder.
- (D) The date that any change in franchise fees is imposed on the franchise holder shall be the same effective date that such fee change is imposed on the customer and such fee changes may be adjusted retroactively to accomplish this goal.

Section 4.18 ARBITRATION IN CASES OF ANNEXATION. In the event of an annexation by a city, franchise holders affected by the boundary change shall attempt to mutually agree as to which franchise holder will provide service. Should an agreement not be reached, the Committee may meet with the affected parties to negotiate a settlement and make recom-

mendations to the Board. Settlements may include remuneration by one franchise holder to another in the case of loss of revenue as a result of annexation. Upon the agreement of the affected city, the Board has the authority to determine what the terms of the settlement shall be and who will provide service to the area under question after a hearing with the affected franchise holders. Notice to the affected franchise holders shall be given at least ten (10) days prior to the hearing by registered letter.

CHAPTER V. RATES FOR COLLECTION AND DISPOSAL SERVICE.

Section 5.01 DETERMINATION OF RATES.

- (A) Upon recommendation by the Committee or upon its own recommendation, the Board may by ordinance, order, or resolution and after public hearing:
- (1) Approve and establish rates filed by applicants for franchises if it finds that such rates are not demonstratively unreasonable and are not substantially higher than those charged generally in the county under similar service requirements and for the same or similar quality of service or it may establish a different rate schedule.
 - (2) Establish uniform rates throughout the county or establish rates that are uniform within zones based upon the length of haul to disposal sites, concentration of customers and other factors which may, in the opinion of the Board, justify establishment of rate differentials.

- (3) Establish rates for disposal sites that are uniform throughout the county or different rates for each site or class of sites.
 - (4) Increase or decrease rates based on the cost of doing business.
 - (5) Establish an interim rate until the Board makes a final determination on the rate for that type of service.
- (B) In determining rates, the Board shall make a finding that the rates will be just, fair, reasonable and sufficient to provide proper service to the public. The Board may consider rates charged by other persons performing the same or similar service in the same or other areas. The Board shall give due consideration to:
- (1) The investment in facilities and equipment.
 - (2) The services of management.
 - (3) Local wage scales.
 - (4) The concentration of customers in the area served.
 - (5) Methods of storage, collection, transportation and disposal, salvage, recycling or reuse.
 - (6) A reasonable return to the franchisee, based upon a percentage of gross receipts under the franchise.
 - (7) The length of haul to disposal facilities.
 - (8) The cost of disposal.
 - (9) The use of transfer stations or transfer systems and the added costs.
 - (10) The cost of alternate methods of disposals.

- (11) The future service demands of the service area or disposal site which must be anticipated in equipment, facilities, personnel or land.
 - (12) Extra charges for special pickups or pickups on days where service is not normally provided on collection route.
 - (13) Extra charges where the type of character of waste or solid waste, including but not limited to, wastes with peculiarly offensive odors, requires special handling or service.
 - (14) Extra charges for providing janitorial services on the premises where service is provided.
 - (15) In addition, with respect to disposal sites, the type of site, whether the site is open to the public and houses, type of wastes disposed of and method of disposal.
 - (16) Cost of compliance with laws, ordinances or regulations and rules of public agencies or bodies having jurisdiction.
 - (17) Other factors which may, in the opinion of the Committee and the Board, necessarily affect the rates to be charged.
- (C) The Board may require an investigation by the Committee of any proposed rates. For the purpose of making this investigation, the Administrator shall assist the Committee and the Committee is authorized to hold public hearings and to take and receive testimony. Upon completion of such an investigation the Committee shall report the results of any public hearing, its finding and its recommendations to the Board.
- (D) Applications for rate adjustments shall be made on the form provided by the Solid Waste Administrator, and must provide all information required by the Administrator.

Section 5.02 RATE PREFERENCES PROHIBITED.

- (A) No franchisee subject to rate regulation by this ordinance shall give any rate preference to any person, locality or type of solid waste stored, collected, transported or disposed.
- (B) Nothing in this section is intended to prevent:
- (1) The reasonable establishment of uniform classes of rates based upon length of haul, type of solid wastes stored, collected, transported or disposed of or the number, type and location of customers served or upon other factors as long as such rates are reasonable based upon costs of the particular service and are approved by the Board in the same manner as other rates.
 - (2) Any person from volunteering service at reduced cost for a charitable, community, civic or benevolent purpose.

Section 5.03 RESPONSIBILITY FOR PAYMENT FOR CHARGES FOR SERVICE.

Any person who received service shall be responsible for payment for such service. After notice, in writing and mailed to the landlord of any premises, the landlord shall be responsible for payment for service provided to those premises if the tenant does not pay for the service.

Section 5.04. PASSING THROUGH OF CERTAIN RATE CHANGES.

A. Notwithstanding the provisions of Sections 5.01 and 5.02, upon recommendation by the Administrator or upon its own recommendation, the Board may, by order or resolution, approve the passing through to customers on a proportional basis any changes in disposal site and transfer station rates that are authorized by governmental bodies.

B. In allocating the fee changes in fees and costs to the classes of customers, the Board shall use the following formula:

1. Residential Customers: An increase or decrease of two and one quarter cents (\$.0225) per can for each \$1.00 per ton change in fee;
2. Container (Drop Box) Customers: An increase or decrease of fifteen cents (\$.15) per loose yard for each \$1.00 per ton change in fee; and
3. Transfer Station Customers: An increase or decrease of \$1.00 per ton (i.e. \$.0005 per pound) for each \$1.00 per ton change in fee.

C. The date that the increased or decreased disposal fees and/or costs are imposed on the franchise holder shall be the same effective date that such fees and/or costs are imposed on the customers and rates may be adjusted retroactively to accomplish this goal.

CHAPTER VI. REGIONAL COLLECTION AND DISPOSAL.

Section 6.01 AGREEMENTS FOR JOINT FRANCHISING OR PLANNING. The Board may enter into agreements with any city or county providing for the allocation of franchise fees where franchise service areas cross city or county boundaries.

Section 6.02 AGREEMENT FOR ALLOCATION OF FRANCHISE FEES. The Board may enter into agreements with any city or county providing for the allocation of franchise fees where franchise service areas cross city or county boundaries.

CHAPTER VII. SOLID WASTE NUISANCE ABATEMENT: UNAUTHORIZED DUMPING PROHIBITED.

Section 7.01 CREATION OF NUISANCE BY ACCUMULATION OF SOLID WASTE PROHIBITED.

(A) Waste or solid waste accumulation prohibited.

- (1) Except as provided in 1.07 of this ordinance, no person shall store, collect, maintain, or display on private property, waste or solid waste that is offensive or hazardous to the health and safety of the public or which creates offensive odors or a condition of unsightliness. Storage, collection, maintenance, or display of wastes or solid waste in violation of this subsection shall be considered to be a public nuisance which may be abated as provided in Section 7.04 of this ordinance.
- (2) Sections 7.03 and 7.04 of this ordinance do not apply to:
 - (a) Areas within the limits of incorporated cities.
 - (b) Disposal sites and transfer stations franchised under provisions of Section 4.01 to 4.06 of this ordinance provided that such disposal sites and transfer stations comply with rules promulgated by any state agency under O.R.S. Chapter 459, of the Oregon Revised Statutes and regulations adopted by the Board of County Commissioners of Columbia County pursuant to this ordinance.

Section 7.02 UNAUTHORIZED DUMPING PROHIBITED. Except as provided in Section 1.07 and in the definition of "disposal site" in Section 1.05 (H) of this ordinance:

- (A) No person shall dispose of solid waste on any land subject to this ordinance of which he is not the owner or occupant except at a disposal sites which may be used by the public and furnish copies of the list upon request.
- (B) No person shall use or permit to be used any land within the County as a public or private disposal site without approval of the Board.
- (C) Persons desiring to bury or dispose in any other manner of their own solid waste on their own property may do so in accordance with rules promulgated pursuant to Chapter 459, of the Oregon Revised Statutes, and regulations promulgated by the Board pursuant to this ordinance.
- (D) Nothing in this section shall prohibit the accumulation or temporary storage of solid waste in receptacles provided for that purpose in compliance with Chapter 459, of the Oregon Revised Statutes, and this ordinance and rules and regulations promulgated thereunder.

Section 7.03 CITATION FOR SOLID WASTE NUISANCES. In addition to the procedures set forth in Sections 7.01, 7.02, 7.04 and/or 8.02 above, the Administrator may, in his or her sole reasonable discretion, elect to utilize the enforcement procedures, including the issuance of citations, set forth in Columbia County Ordinance No. 89-9, the "Columbia County Enforcement Ordinance", in which case all of the procedures and penalties setforth in that ordinance apply.

Section 7.04 ABATEMENT OF NUISANCES.

- (A) The administrator may, and upon the written complaint of any person shall, make an investigation to determine whether or not

storage, collection maintenance, or display of wastes or solid wastes is in violation of Section 7.01 of this ordinance. For the purpose of such investigation the Administrator or his authorized deputy may enter upon private property at reasonable times to determine compliance.

- (B) If, after investigations, the Administrator finds that a nuisance does exist as defined by Section 7.01 of this ordinance, he shall cause a notice to be mailed to the property owner by certified mail, giving him a reasonable length of time, as determined by the Administrator, to abate the nuisance. The notice to abate shall contain:
- (1) A description of the real property by address and legal description. (Reference to book and page being adequate.)
 - (2) The length of time in days that the property owner has to abate the nuisance from the receipt of the notice to abate.
 - (3) A description of the nuisance to be abated.
 - (4) A statement that unless the nuisance is abated by the property owner within the given length of time, the County will cause the nuisance to be abated.
 - (5) That the costs of the nuisance abatement shall be collected from the owner of the property and may be made a lien against the property.
- (C) If the owner of the property does not remove the waste or solid waste so that no nuisance exists within the time specified by the Administrator pursuant to subsection (B) of this section, the Administrator shall forward written notice to the Board consisting of a copy of the abatement notice and the statement of

the Administrator that the Nuisance continues to exist. The Board shall thereupon order a notice to be issued and served upon the owner of the property where the nuisance is alleged to be maintained, requiring the owner to appear before the Board at a time and place named in the notice, to show cause why a nuisance should not be declared to exist. The time for appearance shall not be less than ten (10) days after the service of the notice. The notice shall be served either by certified mail, return receipt requested or in the manner provided by law for the service of summons. At the time and place fixed in the notice issued by the Board, the Board shall hold a hearing on the question of the existence of the nuisance and shall have power to subpoena witnesses to compel their attendance. If, after the hearing, the Board finds that a nuisance exists, it shall declare the existence of a nuisance by order entered in its Journal, and shall order the nuisance abated with thirty (30) days after the entry of the order.

- (D) If the owner or occupant of the property fails to abate the nuisance within thirty (30) days after the entry of the order of the Board, the Board may refer the matter to County Counsel to institute suit in the name of Columbia County for the abatement of the nuisance or the Board may direct the Administrator or his representative to cause the nuisance to be abated by removing from the subject property the waste or solid waste found to be the cause of such nuisance.
- (E) Where the Board has determined that the removal from the subject property of the waste or solid waste found to be the cause of

the nuisance shall be done by the Administrator, unless public bidding is otherwise required, shall contact the franchised collector of the area where the nuisance exists who shall be given the option of removing the nuisance or refusing the job. If the collector accepts the job, he shall charge his approved hourly rate for cleanups. The administrator shall keep an accurate record of expenses incurred by the County in abating the nuisance and shall submit a copy of this record to the County Clerk for filing in a lien docket of Columbia County, said lien docket being prepared for that purpose.

- (F) The Administrator, or his representative, shall forward to the property owner by registered or certified mail, a notice stating:
- (1) The total cost of the nuisance abatement.
 - (2) That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice.
 - (3) That if the owner of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the Board not more than ten (10) days from the date of the notice.
- (G) If within ten (10) days the written statement of objection provided for in (F) (3) is filed, the Board shall at the second regular meeting hear the objections to the cost to be assessed. The Board following this hearing may reduce, modify or approve the assessment made.
- (H) If the costs of the abatement are not paid within thirty (30) days from the date of notice or from the date of the determina-

tion by the Board of the cost to be assessed pursuant to a written statement of objection, an assessment of the costs as stated or as determined by the Board shall be made by Resolution and shall thereupon be entered in the docket of County liens created in Section 7.04 (C). The amount of the charges and expenses when so docketed shall constitute a first lien upon such lands or premises, except as to taxes. In the case of nuisances abated at county expense, when the charges and expenses are not paid and the lien discharged by the owner or occupant of such lands within ninety (90) days from the date the lien is docketed, the County Clerk shall certify the same to the tax collector of such county, who shall extend the amount thereof upon the current tax rolls. When so extended, the same shall constitute a valid lien against such premises and shall be collected by the Tax Collector in the same manner as taxes are collected. All liens so certified by the County Clerk to the Tax Collector after September 1st of each year shall be extended on the next roll delivered to the Tax Collector under ORS 311.115.

- (I) Where the nuisance is abated by the removal by the County, the County and its officers and employees shall not be liable for any trespass or conversion as to any real or personal property.
- (J) The provisions of this section are in addition to and not in lieu of the penalty described in Section 8.01 and 7.03 of this ordinance and the enforcement procedures provided in Section 7.03 of this ordinance.

CHAPTER VIII. APPEALS, ABATEMENT AND PENALTIES.

Section 8.01 APPEALS. All decisions of the Board under this ordinance shall be reviewable by the Circuit Court of the State of Oregon for the County of Columbia, only by way of writ of review.

Section 8.02 ABATEMENT.

- (A) The deposit, accumulation, storage, collection, transportation or disposal of solid wastes by any person in violation of this ordinance or regulations promulgated thereunder is a nuisance and the Board of County Commissioners may, in addition to other remedies provided by law or by this ordinance, institute injunctive abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such deposit, accumulation, storage, collection, transportation or disposal.
- (B) The provisions of this section are in addition to and not in lieu of penalties described in Sections 7.03 and 7.04 of this ordinance.

CHAPTER IX. AMENEMENT, CONSTRUCTION, REPEAL OF CONFLICTING ORDINANCES, EFFECTIVE DATE AND EMERGENCY CLAUSE.

Section 9.01 CONSTRUCTION. Any finding by any court of competent jurisdiction that any portion of this ordinance is unconstitutional or invalid shall not invalidate any other portion of this ordinance.

Section 9.02 AMENDMENTS. Upon recommendation of the Committee or upon its own motion, the Board may from time to time amend the provision of this ordinance. Amendments to Section 7.04 on nuisance abatement shall be by the procedure specified in Chapter 459, of the Oregon Revised Statutes for adoption of ordinances on nuisance abatement. Amendments to

other articles or sections shall be made only after a public hearing before the Board with such advance notice of the hearing as deemed appropriate by the Board or as generally provided by ordinance, regulation or order of the Board.

Section 9.03 REPEAL OF CONFLICTING ORDINANCES. The order of the Columbia County Court dated February 9, 1962, entitled "IN THE MATTER OF PRESCRIBING RULES AND REGULATIONS FOR OPERATION OF GARBAGE DUMPS" and any other portion of any other ordinance previously enacted by this County which are inconsistent with the provisions of this ordinance are hereby repealed.

Section 9.04 EMERGENCY CLAUSE AND EFFECTIVE DATES.

(A) In order to provide the necessary storage, collection, transportation and disposal of wastes and solid wastes in Columbia County and thereby preserve the health, safety and welfare of the residents and inhabitants of the county, an emergency is declared to exist and the terms and provisions of this ordinance, except Sections 7.01 and 7.02, shall become effective upon enactment of this ordinance.

CHAPTER X. RESERVED FOR SALVAGE SERVICE, REUSE, RECYCLING AND RESOURCE RECOVERY.

CHAPTER XI. HEALTH AND SAFETY REQUIREMENTS.

Section 11.01 Limitations and Requirements for Garbage Containers.

Lack of compliance with the following requirements will be just cause for discontinuance of service until corrected:

(A) Containers are limited to 32 gallons in size and sixty (60) pounds in weight.

- (B) Containers must be rigid, rodent proof and have adequate hand-holds on the sides.
- (C) Underground containers must be removed by the customer for service.
- (D) Containers must be easily accessible.