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SOLID WASTE COLLECTION AND DISPOSAL ORDINANCE

WASCO COUNTY, OREGON

AMENDED: March 24, 1994

P940137(31)

IN THE COUNTY COURT OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF A SOLID)
WASTE FRANCHISING AND) ORDINANCE
NUISANCE ABATEMENT ORDINANCE.)

Pursuant to the authority vested in the County Court by Chapter 433, 449, and 459, Oregon Revised Statues, and laws amended thereto the following Ordinance is hereby enacted:

An Ordinance relating to accumulation, storage, collection, transportation, and disposal of wastes and solid wastes; providing penalties and prescribing an effective date.

CHAPTER 101 INTRODUCTORY PROVISIONS, GENERAL PROVISIONS

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CHAPTER 101 INTRODUCTORY PROVISIONS, GENERAL PROVISIONS

101.010 SHORT TITLE

This Ordinance shall be known as the SOLID WASTE COLLECTION AND DISPOSAL ORDINANCE, and may be so cited and pleaded and shall be cited herein as "this Ordinance."

101.020 PURPOSE AND POLICY

To protect the health, safety, and welfare of the people of Wasco County and to provide a coordinated program on accumulation, collection, and disposal of wastes and solid wastes, it is declared to be the public policy of Wasco County to regulate accumulation, collection, and disposal of wastes and solid wastes and the creation and operation of disposal sites to:

(1) Provide for safe and sanitary accumulation, storage, collection, transportation, and disposal of solid wastes.

(2) Prohibit and provide for abatement of accumulation of wastes or solid wastes on private property in such manner so as to create a public nuisance, a hazard to health, or a condition of unsightliness.

(3) Develop a regional long-range plan to provide adequate disposal sites and disposal facilities to meet future demands.

(4) Provide a coordinated County-wide program of control of solid wastes in cooperation with Federal, State, and local agencies responsible for the prevention, control, or abatement of air, water, and ground pollution.

(5) Provide for, and encourage research, studies, surveys, and demonstration projects on developing more sanitary, efficient, and economical solid waste disposal systems and programs.

(6) Provide for a coordinated solid waste disposal program with cities within Wasco County and with other Counties or Cities should regional programs be developed.

(7) Provide for cooperation and agreements between Wasco County and other Counties involving joint or regional franchising of solid waste collection or disposal.

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

101.030 INTERPRETATION

The provisions of this Ordinance shall be liberally construed to effect the purposes set forth above. These provisions are declared to be the minimum requirements fulfilling such objectives and where conditions herein imposed are less restrictive than comparative conditions imposed by any other provision of this Ordinance, by provision of any other local Ordinance, Resolution or Regulation, or by provision of State Law or State Administrative Regulation, then the more restrictive shall govern.

101.050 SEVERABILITY

The provisions of this Ordinance are severable. If any section, sentence, or phrase of this Ordinance is adjudged to be invalid by a Court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Ordinance.

101.060 EDITORIAL REVISION

The District Attorney may at any time direct such changes regarding currently maintained copies of this Ordinance and amendments as the Legislative Counsel is authorized to perform regarding acts of the Legislature, pursuant to ORS 173.160, provided that such editorial revisions be directed by written memorandum filed with the County Clerk and with the Administrator, but subject to disapproval by the County Court at its next regular meeting thereafter.

101.090 EFFECTIVE DATE

This Ordinance shall become effective 30 days after filed with the County Clerk. Amendments hereto, unless otherwise specifying, shall become effective when filed with the County Clerk. Editorial revisions shall become effective, unless disapproved by the County Court, on the first judicial day following the first regular meeting of the County Court after the directing memorandum is filed with the County Clerk.

101.500 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.

101.510 ADMINISTRATOR

The County Sanitarian and his duly authorized deputy or assistant.

101.512 AGRICULTURAL OPERATION

Raising and harvesting crops, or for the feedings, breeding and management of livestock; or for dairying; or any other agricultural or horticultural use or any combination thereof, for the purpose of obtaining profit in money and includes the preparation and storage of the products raised thereon for man's and/or animal's use and disposal by marketing or otherwise.

101.515 BOARD

The County Court of Wasco County, Oregon.

101.520 COLLECTION VEHICLE

Any vehicles used to collect or transport solid waste.

101.525 COMMITTEE

The Solid Waste Disposal Committee established by this Ordinance.

101.530 COMPENSATION

Includes any type of consideration paid for service, including but not limited to direct or indirect compensation by tenants, licensees, or similar persons.

101.532 COUNTY

The County of Wasco, Oregon.

101.534 COUNTY COURT

The County Court of Wasco County, Oregon.

101.535 DISPOSE OR DISPOSAL

Includes accumulation, storage, collection, transportation, and disposal of solid wastes.

101.540 DISPOSAL SITE

Any land used for the disposal of solid wastes, including but not limited to dumps, landfills, sanitary landfills, and composting plants, but does not include a landfill site which is not used by the public either directly or through a service and which is used

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by the owner or tenant thereof to dispose of sawdust, bark, soil, rock, or nonputrescible industrial waste products resulting from the process of manufacturing.

101.545 FRANCHISE

A franchise to provide service issued by the County Court pursuant to Sections 103.010 to 103.160 of this Ordinance.

101.550 FRANCHISE, COLLECTION

A franchise to store, collect, or transport solid wastes.

101.555 FRANCHISE, DISPOSAL

A franchise to create or maintain a disposal site.

101.560 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.

101.565 INCINERATOR

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

101.570 LANDFILL

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

101.575 PERSON

Means and includes individuals, corporations, associations, firms, partnerships, and joint stock companies.

101.580 PUTRESCIBLE MATERIAL

Organic material that can decompose, and may give rise to foul smelling, offensive products.

101.582 REGIONAL SERVICE AREA

The Oregon Counties of Wasco, Hood River and Sherman. The Washington Counties of Klickitat and Skamania.

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101.585 REGULATIONS

Regulations promulgated by the County Court pursuant to this Ordinance.

101.590 RULES

Rules promulgated by State agencies pursuant to ORS Chapter 459.

101.595 SANITARY LANDFILL

A disposal site operated by means of compacting and covering solid waste at least once each operating day.

101.600 SERVICE

The collection, transportation, or disposal by private persons of solid waste for compensation.

101.605 SERVICE AREA

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

101.610 SOLID WASTE

All putrescible and nonputrescible wastes, whether in solid or liquid form, except liquid-carried industrial wastes or sewage or sewage hauled as an incidental part of a septic tank or cesspool cleaning service, but including garbage, rubbish, ashes, sewage sludge, street refuse, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, dead animals, and other discarded solid materials.

101.615 WASTE

Useless, unwanted, or discarded materials.

CHAPTER 102 BASIC PROVISIONS AND REGULATIONS

102.010 Solid Waste Accumulation Prohibited
102.020 Abatement of Nuisances
102.030 Unauthorized Dumping Prohibited
102.500 Regulations

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CHAPTER 102 BASIC PROVISIONS AND REGULATIONS

102.010 SOLID WASTE ACCUMULATION PROHIBITED.

(1) Except as provided in Subsection (2) of this section, 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 wastes in violation of this subsection shall be considered to be a public nuisance which may be abated as provided in Section 102.020 of this Ordinance.

(2) Sections 102.010 to 102.020 of this Ordinance do not apply to:

(a) Disposal sites franchised under provisions of Sections 103.010 to 103.160 of this Ordinance, provided that such disposal sites comply with rules promulgated by any State agency under ORS Chapter 459 and and regulations adopted by Wasco County pursuant to this Ordinance.

(b) Agricultural operations and growing or harvesting of crops and the raising of fowls or animals.

102.020 ABATEMENT OF NUISANCES

(1) The Administrator and the Wasco County Health Officer may initiate an investigation to determine whether or not the storage, collection, maintenance, or display of wastes or solid wastes is in violation of Section 102.010 of this Ordinance, and upon written complaint being made by any person, the Administrator and the Wasco County Health Department shall conduct an investigation for such purpose.

(2) After investigation, the Administrator or the Wasco County Health Officer shall make written report of his findings and recommendations, if any, to the County Court.

(3) If, upon receiving the report from the Administrator or County Health Officer, the County Court finds reasonable cause to believe that a public nuisance exists, the County Court may order that a notice be issued and served upon the owner, tenant, occupant, or person in possession of the premises where the nuisance is alleged or claimed to exist, requiring such person to appear before the County Court at the time and place stated in the notice, to show cause why a nuisance should not be declared to exist on

the premises. The time for appearance shall not be less than 10 days from the service of the notice. The notice shall be served in the manner provided by law for the service of summons.

(4) At the time and place described in said notice, the County Court shall conduct a public hearing on the existence of the alleged nuisance, and if the County Court finds that a nuisance does exist, it shall declare the existence of a nuisance by order entered in its journal, and shall order a suit to be brought in the name of the County for its abatement.

(5) In the event a writ of abatement is issued pursuant to Subsection (4) of this section, the County may remove from the subject premises the waste or solid waste found to be the cause of such nuisance. When such removal is performed by the County, the County shall not be liable for any trespass or conversion as to any real or personal property and the costs may be collected from the person served in accordance with Subsection (4) of this section, or may be collected as a lien against such property.

(6) The provisions of this section are in addition to and not in lieu of the penalty described in Section 108.900 of this Ordinance.

102.030 UNAUTHORIZED DUMPING PROHIBITED

(1) Except as provided in Subsection (2) of this section, it shall be unlawful to dispose of solid waste at any other place than a disposal site approved by the County Court. The County Court will designate in writing the places where solid wastes collected in the County shall be disposed of.

(2) No person shall use or permit to be used any land within the County outside of incorporated cities as a public or private disposal site without approval of the County Court. Persons desiring to bury or dispose in any other manner of his own solid waste on his own property may do so in accordance with rules promulgated pursuant to ORS Chapter 459, and regulations promulgated by the County Court pursuant to this Ordinance.

102.500 REGULATIONS

Upon recommendation of the Committee or upon its own motion, the County Court may promulgate reasonable regulations pertaining to the administration of this Ordinance.

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(1) As provided in ORS 433.730, where necessary to meet special local conditions, in addition to the requirements of ORS 459.040 and rules promulgated thereunder, the County Court may promulgate reasonable rules governing storage, accumulation, collection, transportation, and disposal of solid wastes, including, but not limited to, the following:

(a) Accumulation, storage, collection, transportation, and disposal of solid wastes to prevent:

(aa) Vector production and sustenance.

(bb) Conditions for transmission of disease to man or animals.

(cc) Air pollution by dust, fumes, gas, smoke, odors, or particulate matter or any combination thereof.

(dd) Pollution of surface or ground water.

(ee) Hazards to service or disposal workers or to the public.

(b) Storage of solid wastes at the point of origin to eliminate conditions conducive to the creation of vector nuisances or air or water pollution through proper container construction and design and through solid waste handling practices, including but not limited to container maintenance.

(c) Disposal sites with respect to adaptability of the site to the population served; topography and geology of the area; protection of ground and surface water; air pollution; accessibility; longevity; salvage, ultimate site use; standards of design, management, and operation; regulation and limitation of open burning and salvage operation; and protection of adjacent or nearby residents.

(d) Construction, loading, and operation of collection vehicles used in performing service to prevent the contents thereof from dropping, sifting, leaking, or escaping onto public highways.

(e) Safe handling of hazardous wastes.

(2) As provided in Chapter 90, Oregon Laws 1969, the County Court may promulgate reasonable regulations with respect to service governing:

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(a) The quality and character of service provided by any person or to any area outside of any incorporated city.

(b) Rates for service.

(c) Minimum requirements to guarantee service.

CHAPTER 103 FRANCHISING SOLID WASTE COLLECTION AND DISPOSAL

103.010 Persons, Activities, and Practices Regulated
103.020 Applications
103.030 Requirements for Collection Franchises
103.040 Issuance of Collection Franchises
103.045 Disposal Franchise Requirements
103.050 Issuance of Disposal Franchises
103.060 Appeal on a Franchise
103.070 Exclusive or Joint Service Under a Franchise
103.080 Transfer of Franchises
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103.100 Enforcement of Franchise Provisions
103.110 Suspension, Modification, Revocation, or Refusal to Renew a Franchise
103.120 Preventing Interruption of Service
103.130 Term of Franchises
103.150 Franchise Fees
103.155 Surcharges
103.160 Use of Franchise Fees and Surcharges

CHAPTER 103 FRANCHISING SOLID WASTE COLLECTION AND DISPOSAL

103.010 PERSONS, ACTIVITIES, AND PRACTICES REGULATED

(1) Except as provided in Section 107.010 of this Ordinance it shall be unlawful for any person to store, collect, transport, or dispose of any solid waste for compensation unless such person is franchised in accordance with the provisions of Sections 103.010 to 103.060 of this Ordinance.

(2) Except as provided in Section 107.010 and Sections 103.010 to 103.160 of this Ordinance, it shall be unlawful for any person to create or maintain a disposal site.

103.020 APPLICATIONS

Applications for franchises shall be on forms provided by the Administrator. In addition to information required on the forms, the Administrator may require the filing of any additional information he deems necessary to insure compliance with this Ordinance.

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(1) Applicants for collection franchises shall state the types of service to be provided and shall supply information required to determine compliance with Section 103.030 of this Ordinance.

(2) Applicants for disposal franchises shall file a duplicate copy of the information required by the Environmental Quality Department under ORS Chapter 459.

103.030 REQUIREMENTS FOR COLLECTION FRANCHISES

(1) Persons who are provided collection service on the effective date of this Ordinance must make application for a collection franchise within 30 days thereafter and, upon filing an application and furnishing required information for such franchise, may continue to provide collection service until a final decision on the application is made by the County Court.

(2) Persons providing service on the effective date of this Ordinance shall be granted a collection franchise for the area they are presently servicing provided that such persons are providing adequate service and otherwise qualify for a franchise under this section. If the Administrator or the Solid Waste Committee recommends to the County Court that an operator not be granted such franchise on the basis of inadequate existing service, the County Court shall hold a public hearing prior to the allocation of the service area involved in the same manner as provided in Section 103.060 of this Ordinance. The applicant must show to the satisfaction of the County Court that he:

(a) Has a majority of the service accounts in the service area for which he has applied, which shall be evidenced by a list of customers served.

(b) Has available collection vehicles, equipment, facilities, and personnel sufficient to meet the standards of equipment and service established by this Ordinance and ORS Chapter 459, and rules and regulations promulgated thereunder. If the applicant proposes to serve a service area or portion thereof which is under franchise to another person or to replace such person upon expiration of the existing franchise, he shall have available on the day beginning the proposed franchise term collection vehicles, containers, and other equipment equal to that presently used in service.

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(c) Has good moral character, or if the applicant is a firm or corporation that the principal partners or officers are of good moral character.

(d) Will use disposal sites authorized by the County Court and list such sites.

(e) Has sufficient experience in properly providing such service to insure compliance with this Ordinance and any regulations promulgated thereunder. If the applicant does not have sufficient experience, the County Court may require the applicant to submit a corporate surety bond in the amount of $5,000.00 or one-twelfth of the estimated gross revenue to be obtained from the service annually, whichever is greater, guaranteeing full and faithful performance by the applicant of the duties and obligations of a franchise holder under the provisions of this Ordinance and applicable Federal, State and local laws and rules or regulations.

(f) If the applicant is not already serving the area proposed to be served, he shall show that:

(aa) The defined service area has not been franchised to another person; or

(bb) The defined service area is not being presently served by the holder of a franchise therefor pursuant to any schedule established as part of the franchise in accordance with subsection (a) of Section 103.090 of this Ordinance; or

(cc) The defined service area is not being adequately served by the holder of the franchise and there is a substantial demand from customers within the area for a change of service to that area.

(g) Has in force public liability insurance in the amount of not less than $300,000.00 and property damage insurance in the amount of not less than $25,000.00, which shall be evidenced by a certificate of insurance.

103.040 ISSUANCE OF COLLECTION FRANCHISES

(1) Applications for collection franchises shall be reviewed by the Administrator and by the Wasco County Health Officer. They shall make such investigation as they deem appropriate. The Administrator shall give written notice to any person who holds a franchise which includes any part of the area contained in the application for franchise.

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Upon the basis of the application, evidence submitted, and results of any investigation by the Administrator and by the Wasco County Health Officer, the Committee shall make a finding on the qualifications of the applicant and shall determine whether additional areas should be included or additional service or equipment should be provided.

On the basis of its findings, the Committee shall recommend to the County Court whether or not the application should be granted, be denied, or be modified. The County Court shall issue an Order granting, denying, or amending the application.

103.045 DISPOSAL FRANCHISE REQUIREMENTS

(1) Applicants for a disposal 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, including but not limited to the Environmental Quality Department, State Board of Health, Solid Waste Section of the State Board of Health, Oregon State Highway Department, Wasco County Health Department, Wasco County Planning Commission and the County Court.

(2) Applicants shall specify the type of disposal site and the disposal method to be employed, together with any proposed special regulations dealing with hazardous wastes or what waste will be accepted or rejected at the disposal site.

(3) The applicant must show to the satisfaction of the County Court that he:

(a) Has available land, equipment, facilities, and personnel to meet the standards established by this Ordinance and ORS Chapter 459, and the rules and regulations promulgated thereunder and has insurance equal to that required by Section 103.030 of this Ordinance.

(b) Has good moral character, or if the applicant is a firm or corporation, that the principal partners or officers are of good moral character.

(c) Has sufficient experience in property providing disposal service to insure compliance with this Ordinance and any regulations promulgated thereunder. If the applicant does not have sufficient experience, the County Court may require the applicant to submit a corporate surety bond in the minimum amount of $5,000.00, but not more than $25,000.00, guaranteeing

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full and faithful performance by the applicant of the duties and obligations of a franchise holder under provisions of this Ordinance and applicable Federal, State, and local laws and rules or regulations. In determining the amount of bond to be required, the County Court shall give due consideration to the size of the site, the method of disposal proposed, the population to be served, adjacent or nearby land uses, and the potential danger of failure of service.

(4) If the applicant is providing disposal service on the effective date of this Ordinance and files his application within 30 days thereafter, he may continue service until the final decision of the County Court on his application.

103.050 ISSUANCE OF DISPOSAL FRANCHISES

Applications for disposal franchises shall be reviewed by the Administrator, the Wasco County Health Officer, and the Wasco County Planning Commission. The Administrator, Wasco County Health Department, and the Wasco County Planning Commission shall make such investigation as they deem appropriate. Written notice shall be given by the Administrator to any person who holds a disposal franchise for service to all or part of the area that reasonably would be served under the application.

Upon the basis of the application, evidence submitted, and results of any investigation, the Committee shall make a finding on the qualifications of the applicant; whether or not additional service, land, equipment and/or facilities should be provided and what conditions of service should be imposed, including but not limited to whether the site should be opened to the public and under what conditions; whether or not certain types of wastes, solid wastes, or hazardous wastes should be excluded from the site or should be required to be accepted at the site; whether or not the site is economically feasible; whether or not the site may be integrated with existing private or county-owned or operated sites; and whether or not the site complies with all rules and regulations adopted pursuant to ORS Chapter 459 of this Ordinance.

On the basis of its findings, the Committee shall recommend to the County Court whether or not the application should be granted, be denied, or be modified. The County Court shall issue an order granting, denying, or amending the application.

103.060 APPEAL ON A FRANCHISE

If the Order of the County Court is adverse to the applicant or to the holder of an existing franchise, it shall not become effective until 30 days after the date of said Order unless

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the County Court 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.

The applicant or a franchise holder may request a public hearing before the County Court upon the County Court's Order by filing a written request for the hearing with the County Court within 30 days after the date of said Order. On the filing of such request for hearing the County Court shall set a time and place for a public hearing upon its Order, which hearing shall not be more than 30 days from the date of said request for hearing. The applicant or franchise holder may submit relevant evidence to the County Court upon the County Court's Order. Other interested persons or affected public or private agencies may appear and offer oral or written testimony. The County Court may, following the public hearing, affirm, modify, or rescind its prior Order.

Subject to provisions of Section 108.500, the determination of the County Court after conclusion of said public hearing shall be final.

If the County Court makes a final Order rejecting all or part of the application for a franchise, the applicant may not submit another application for the same service area or a portion thereof or the same disposal site for a period of six months unless the County Court finds that the public interest requires reconsideration within a shorter period of time.

103.070 EXCLUSIVE OR JOINT SERVICE UNDER A FRANCHISE

If the County Court finds upon recommendation of the Committee that an applicant for a collection franchise cannot provide service to a single customer, a group or type of customers, or for a particular type or unusually large quantity of solid waste, it may issue a franchise for joint service with another person who can provide that service, provided, however, that in all cases in which the County Court finds that the applicant is able to provide adequate service within the defined service area it shall issue an exclusive franchise for that area to the applicant.

If the holder of a franchise is unable to provide service for particular types or unusually large quantities of solid wastes, the County Court may issue a temporary or permanent franchise to another person for the limited purpose of providing service to the customer or customers having such particular type or unusually large quantity of solid wastes.

If the County Court finds upon recommendation of the Administrator that the need for service justifies action before a

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complete investigation and final determination can be made it may Order the Administrator to issue a temporary certificate valid for a stated period not to exceed six months entitling a person to serve a defined service area or customers.

103.080 TRANSFER OF FRANCHISES

A franchise holder may transfer his franchise or a portion thereof to other persons only upon written notice to and approval by the County Court.

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

Upon recommendation of the Committee the County Court 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 County Court may attach whatever conditions it deems appropriate to guarantee maintenance of service.

103.090 RESPONSIBILITIES OF FRANCHISE HOLDERS

(1) The holder of a collection franchise:

(a) Shall provide required service, equipment, and facilities, but not less than service, equipment, and facilities commensurate with existing service provided within the service area defined in the franchise, within one month from the date of issuance of the franchise unless the County Court extends the time upon showing of reasonable grounds by the applicant. In the event an area is not receiving service on the date of the application for a franchise covering such area, the County Court may order that service be provided at such time as it finds to be reasonable.

(b) Shall not voluntarily discontinue service to the service area or any substantial portion thereof or any customer without giving 90 days written notice of the proposed discontinuance of service to the Administrator and to his customers and shall not discontinue the service without receiving the approval of the County Court. Nothing in this section shall

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prohibit a franchisee from refusing to provide service to a customer if the customer refuses to pay for the service in accordance with rates established pursuant to this Ordinance or for other reasons as may be established by the County Court by regulation, provided, however, in no event shall the holder of any franchise terminate such service without seven days prior written notice notifying his customers and the Administrator of the holder's intention to terminate service. A franchise holder who has discontinued service on the basis of a refusal of a customer to pay for such service may demand that the customer pay in advance a reasonable deposit to guarantee payment for future services before reinstating such service.

Nothing in this subsection shall apply to any Order for a change, restriction, or termination of service by any public agency, public body, or Court having jurisdiction.

(c) May contract with another person to provide service within a service area after giving written notice to and obtaining approval of the Administrator. The Administrator shall approve the contract unless he finds that the quality or extent of service would be jeopardized.

(d) May refuse service to a customer upon reasonable grounds when approved by the Administrator upon a finding that service at the particular location would jeopardize the safety of the driver of the 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.

(2) The holder of a disposal franchise:

(a) Shall not voluntarily discontinue service without giving at least 90 days written notice of the proposed discontinuance of service to the County Court and to any franchisee using his disposal site and further receiving the approval of the County Court prior to discontinuing said service. This paragraph shall not apply to any Order for closure or restriction of use by any public agency, public body, or Court having jurisdiction.

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(b) May contract with another person to operate the disposal site after giving written notice to and obtaining the approval of the Administrator. The Administrator shall approve the contract unless he finds that the quality or extent of service would be jeopardized. In making his determination, the Administrator shall consult with the Wasco County Health Department.

(c) May refuse disposal service to any customer if the customer refuses to pay for the 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 such service.

103.100 ENFORCEMENT OF FRANCHISE PROVISIONS

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 section. If in the opinion of the Administrator, there is sufficient evidence to constitute a violation of this Ordinance or ORS Chapter 459, or the rules or regulations promulgated under either, the Administrator shall notify the holder of the franchise in writing of the alleged violation, delineate in said notice the steps that must be taken to cure the violation and inform the holder that he must comply with the requirements set forth in said notice. The Administrator shall notify the Committee of said violation. Upon a finding that a violation exists and that the franchisee is unable or refuses to cure the violation, the Committee shall make its recommendation to the County Court that the franchise be suspended, modified, or revoked or that it not be renewed.

103.110 SUSPENSION, MODIFICATION, REVOCATION, OR REFUSAL TO RENEW A FRANCHISE

(1) Upon recommendation by the Committee or upon its own motion the County Court may suspend, modify, revoke, or refuse to renew a franchise upon finding that the holder thereof has:

(a) Willfully violated this Ordinance or ORS Chapter 459, or the rules or regulations promulgated thereunder; or

(b) Materially misrepresented facts or information given in the application for the franchise; or

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(c) Willfully refused to provide adequate service in a defined service area or at the franchised disposal site after written notification and a reasonable opportunity to do so; or

(d) Misrepresented the gross receipts from the franchised service area or, if required to report on such receipts, the gross receipts from operation of a franchised disposal site.

(2) In lieu of immediate suspension, modification, revocation, or refusal to renew a franchise, the County Court may order compliance and make the suspension, modification, revocation, or refusal to renew a franchise contingent upon compliance with the Order within the period of time stated in said Order.

(3) If the County Court suspends, modifies, revokes, or refuses to renew the franchise, the action shall not become effective until 30 days after the date of the order unless the County Court finds that there is a serious and immediate danger to the public health or that a public nuisance would be created. The holder of a franchise may request a public hearing before the County Court upon the County Court's Order by filing a written request for such hearing with the County Court within 30 days after date of said Order. Upon filing of said request for hearing, the County Court shall set a time and place for a public hearing upon its Order, which hearing shall be no more than 30 days from the date of filing of said request for hearing. The franchise holder and other interested persons or affected public agencies may submit oral or written evidence to the County Court relevant to the County Court's Order. The County Court may, following the public hearing, affirm, amend, or rescind its prior Order. Subject to provisions of Section 108.500, the determination of the County Court after conclusion of said public hearing shall be final.

103.120 PREVENTING INTERRUPTION OF SERVICE

The holder of any franchise agrees, and it is a condition of his obtaining and holding the franchise that whenever the County Court finds that the failure of service would result in creation of health hazards or public or private nuisance, the County Court, after reasonable notice, but not less than 24 hours notice to the franchisee and a public hearing if the franchisee requests such hearing, shall have the right to authorize another franchise holder or other person to provide service or to use and operate the land, facilities, or equipment of the franchise holder through leasing to provide

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emergency service in the event of a serious interruption of service to all or to a class or group of customers for so long as such interruption continues.

103.130 TERM OF FRANCHISES

Franchises shall be renewable unless grounds exist for refusal to renew pursuant to Section 103.010 of this Ordinance.

The term for collection franchises shall be ten years unless the County Court finds that a longer or shorter term is required in the public interest.

The term for disposal franchises shall be determined by the County Court upon the basis of the recommendation of the Committee based on site longevity, population to be served, and probable use.

103.150 FRANCHISE FEES

(1) The County Court shall collect in the manner and at the time provided in this section from the holder of:

(a) Any collection franchise an annual fee of $100.00 per collection vehicle used in providing collection service on July 1 of the year and payable to Wasco County on July 1 of each year.

(b) Any disposal franchisee, a franchise fee of 4% of its gross revenues from garbage disposal, payable monthly by the 20th of the month.

(2) Every collection franchise holder shall maintain books and records disclosing the gross receipts from his service area, which books and records shall be open at reasonable times and places for audit by authorized personnel of Wasco County. When reasonably required by the County Court the holder of a disposal site franchise shall maintain books and records disclosing gross receipts at the disposal site, which books and records shall likewise be available for audit.

(3) Any disposal franchisee failing to pay the franchise fee by the time specified in Subsection 1(b) of this Section is delinquent and shall pay a penalty fee in addition to the required franchise fee. The penalty fee shall be $100.00 for each day the payment is delinquent.

103.155 SURCHARGES

(1) The County Court shall collect in the manner and at the time provided in this Section from the holder of a disposal franchise, or the person specified in (3) of this Section;

(a) A surcharge on solid waste originating from outside Wasco County. The surcharge to be paid monthly by the end of the following month.

(2) In determining a surcharge, the County Court shall give due consideration to any costs the County may incur; out of region disposal fees; and other factors which may, in the opinion of the County Court, justify the establishment or adjustment of a surcharge.

(3) Surcharges, shall be the ultimate responsibility of the person contracting or agreeing with the disposal franchisee to dispose of out of County solid waste.

(4) For purposes of Section 103.150 (1) (b) surcharges shall not be considered part of the gross revenues of a disposal franchisee.

(5) Any person failing to pay the surcharge by the date specified in Subsection (1) (a) of this Section is delinquent and shall pay a penalty fee in addition to the required surcharge. The penalty fee shall be $100.00 for each day the payment is delinquent.

103.160 USE OF FRANCHISE FEES AND SURCHARGES

Fees collected pursuant to Section 103.150 and 103.155 of this Ordinance shall be paid into the general fund of the County, unless otherwise directed by the County Court. The Committee may make recommendations to the County Court on a budget for the use of such funds to carry out the provisions of Section 101.020 of this Ordinance.

CHAPTER 104 REMEDIES

104.010 Authority to Enter Premises
104.020 Investigation to Determine Whether Public Nuisance Exists; Notice to Abate; Proceeding to Prevent Existence of Nuisance
104.030 When Court May Abate Nuisance; Liability; Costs
104.040 Judicial Review
104.050 Penalties

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CHAPTER 104 REMEDIES

104.010 AUTHORITY TO ENTER PREMISES

The County Health personnel, sanitarians or other authorized County personnel may enter upon the premises of any person at reasonable times to determine compliance with and to enforce Wasco County Solid Waste Collection and Disposal Ordinance.

104.020 INVESTIGATION TO DETERMINE WHETHER PUBLIC NUISANCE EXISTS; NOTICE TO ABATE; PROCEEDING TO PREVENT EXISTENCE OF NUISANCE

(1) To determine whether there is reasonable cause to believe that a public nuisance exists on private property outside the limits of any city, the County Court, or whomever it designates, may conduct an investigation for that purpose. In conducting such an investigation, the Court, or whomever it designates, may administer oaths, subpoena and require the attendance of witnesses at public hearings, require the production of relevant documents, and take the testimony of any person.

(2) Whenever it appears that there is reasonable cause to believe that a public nuisance exists, the Court may order that a notice be issued and served upon the owner, tenant, occupant or person in possession of the premises where the nuisance is alleged to exist, requiring the person to appear before the board at the time and place stated in the notice to show cause why a nuisance should not be declared to be existing on the premises.

(3) At the time and place described in the notice, the Court shall conduct a public hearing on the question of the existence of the alleged nuisance. If the board finds that a nuisance exists, it shall declare the existence of a nuisance by order entered in its journal, and may order a suit to be brought in the name of the County to institute injunction, abatement or any other proceeding provided by law to prevent temporarily or permanently the existence of the nuisance.

104.030 WHEN COURT MAY ABATE NUISANCE; LIABILITY; COSTS

(1) In lieu of and not in addition to the remedies provided in Section 104.020 of this Ordinance, if after a hearing held in accordance with that section, the Court declares the existence of a nuisance by Order entered in its journal, and if the owner or occupant of the property fails to abate the nuisance within 30 days after the entry of the Order, the Court may cause the nuisance to be abated. If

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the abatement is performed by the County, or its agent, neither the County nor its agent shall be liable for any trespass or conversion as to any real or personal property and the costs may be collected from the person served in accordance with Section 104.020 of this Ordinance, or they may be collected as lien against the property.

(2) The remedies provided in Section 104.020 of this Ordinance and in this Section are in addition to and not in lieu of any other remedies otherwise provided by law.

104.040 JUDICIAL REVIEW

Review of any action of the Board of Commissioners taken pursuant to Section 104.030 of this Ordinance shall be taken exclusively by writ of review in the manner provided by law.

104.050 PENALTIES

(1) Violation of Wasco County Solid Waste Collection and Disposal Ordinance, (Chapter 102) is punishable by a $500.00 fine.

(2) Each day a violation referred to under Subsection (1) of this section continues constitutes a separate offense.

(3) Penalties provided in this section are in addition to, and not in lieu of, any other remedy provided by law.

CHAPTER 105 RATES AND CHARGES FOR COLLECTION AND DISPOSAL SERVICES

105.010 Determination of Rates
105.040 Rate Preferences Prohibited
105.050 Responsibility for Payment of Charges for Service

CHAPTER 105 RATES AND CHARGES FOR COLLECTION AND DISPOSAL SERVICES

105.010 DETERMINATION OF RATES

(1) Upon recommendation of the Committee the County Court may approve and establish existing rates filed by applicants for franchises if it finds that such rates are not demonstrably 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 rate schedule. In determining whether rates are reasonable under this subsection the County Court shall give due consideration to the rate guidelines established by this section.

(2) Upon recommendation of the Committee the County Court may establish uniform rates throughout the County or may establish rates within zones based upon the length of haul or other factors which may, in the opinion of the County Court, justify establishment of rate differentials.

(3) When establishing rates for disposal sites, in addition to other factors specified in this section, the County Court shall consider the type of site, the cost of operation of such site, whether or not the site is open to the public, the type of waste to be disposed of and cost of compliance with Federal, State, and local laws and regulations, together with such other factors which may in the opinion of the County Court affect the rates to be charged. The County Court may establish uniform rates for all disposal sites or may establish different rates based upon the factors specified in this section.

(4) In determination of rates or proposed rate changes, the Committee and the County Court shall give due consideration to: the investment in facilities and equipment; the services of management; local wage scales; the concentration of customers in the area serviced; methods of storage; collection; transportation and disposal; the length of haul to disposal facilities; the cost of disposal; a reasonable return to the owners of the business; the future service demands of the area or site which must be anticipated in equipment, facilities, personnel, or land; extra charges for special pickups or pickups on days when service is not normally provided on a route; extra charges when the type or character of solid waste, including but not limited to wastes with peculiarly offensive odors, requires special handling or service; and extra charges for providing janitorial services on the premises where service is provided.

(5) The County Court may require an investigation by the Committee of any proposed rate or rate increase or decrease. For the purpose of making this investigation, the Committee, in cooperation with the Administrator, is authorized to hold public hearings and to take and receive testimony relevant to the considerations to be made by the County Court in establishing a rate or in allowing or denying the rate increases or decreases under this Ordinance. Upon completion of its investigation the Committee shall make a report of the public hearing and shall make recommendations to the County Court regarding the proposed rate.

(6) In establishing rates or in considering rate increases or decreases, the County Court must find that the rates will be just, fair, reasonable, and sufficient to provide proper

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service to the public. The County Court may consider the rates charged by other persons performing the same or similar service in the same or other areas.

(7) In the event no rate has been established for a particular type of service, the Administrator may establish an interim rate until the County Court makes a final determination on the rate for that type of service. In establishing such a rate, the Administrator shall give due consideration to all of the factors established as guidelines for the Committee and County Court in this section.

105.040 RATE PREFERENCES PROHIBITED

(1) No franchise holder subject to rate regulation under this Ordinance shall give any rate preference to any person, locality, or type of solid waste stored, collected, transported, or disposed.

(2) Nothing in this section is intended to prevent:

(a) The reasonable establishment of uniform classes or rates based upon length of haul, type of solid waste 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 reasonably based upon costs of the particular service and are approved by the County Court in same manner as other rates.

(b) Any person from volunteering service at reduced cost for a charitable, community, civic, or benevolent purpose.

105.050 RESPONSIBILITY FOR PAYMENT OF CHARGES FOR SERVICE

Any person who receives service shall be responsible for payment for such service.

CHAPTER 106 REGIONAL COLLECTION AND DISPOSAL

106.010 Agreements for Joint Franchising
106.020 Agreements for Allocation of Franchise Fees

CHAPTER 106 REGIONAL COLLECTION AND DISPOSAL

106.010 AGREEMENTS FOR JOINT FRANCHISING

The County Court may enter into agreement with any City or County for joint or regional franchising of collection or disposal service.

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106.020 AGREEMENTS FOR ALLOCATION OF FRANCHISE FEES

The County Court may enter into agreement with any City or County providing for allocation of franchise fees if the franchise service areas cross City or County boundaries.

CHAPTER 107 EXCEPTIONS

107.010 Persons and Agencies Exempted

CHAPTER 107 EXCEPTIONS

107.010 PERSONS AND AGENCIES EXEMPTED

This Ordinance shall not apply:

(1) Within the incorporated limits of any City, except as provided pursuant to Sections 106.010 to 106.020 of this Ordinance.

(2) To Federal or State agencies that collect, store, transport or dispose of wastes or solid wastes.

(3) To those who contract with Federal or State agencies to perform the services set forth in Subsection (2) of this section, but the exemption hereby declared shall extend only to rates and terms of service, and only to such service performed by or for the Federal or State agency.

(4) The exemptions declared by Subsections (2) and (3) of this section shall not apply to disposal on a disposal site operated by a franchisee under this Ordinance.

CHAPTER 108 PROCEDURAL PROVISIONS

108.010 Administration
108.015 Solid Waste Committee
108.020 Appointment of the Solid Waste Committee
108.030 Duties of the Solid Waste Committee
108.040 Regional Solid Waste Committee
108.500 Court Appeal
108.510 Appeals from Decisions of the Administrator
108.600 Abatement
108.900 Penalties

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CHAPTER 108 PROCEDURAL PROVISIONS

108.010 ADMINISTRATION

The Administrator, under the supervision of the Committee and the County Court, shall be responsible for the administration and enforcement of this Ordinance.

In order to carry out the duties imposed by this Ordinance, the Administrator shall have authority to enter or authorize personnel to enter upon the premises of any person regulated by this Ordinance at reasonable times to determine compliance with this Ordinance and the regulations promulgated by the County Court pursuant thereto.

108.015 SOLID WASTE COMMITTEE

(1) There is hereby created a Solid Waste Committee consisting of:

(a) The Wasco County Sanitarian.

(b) The County Health Officer or Assistant County Health Officer.

(c) The City Manager of The Dalles.

(d) Two members of the general public.

(e) As ex officio members without vote to advise and assist the Committee:

(aa) Mayor of Antelope

(bb) Mayor of Dufur

(cc) Mayor of Maupin

(dd) Mayor of Mosier

(ee) Mayor of Shaniko

(f) As advisers to the Committee:

(aa) Director of Solid Waste Section, State Board of Health.

(bb) State Director of Environmental Quality Department.

(cc) Wasco County District Attorney.

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(2) In addition to the members provided in Subsection (a) of this section the Board may designate other members, ex officio members, or advisers to the Committee.

(3) Subject to the approval of the County Court, public employee members, ex officio members, or advisers on the Committee may designate alternates to serve in their place. The County Court may designate alternates to serve in place of members of the general public or their representatives.

108.020 APPOINTMENT OF THE SOLID WASTE COMMITTEE

(1) Members of the Solid Waste Committee shall be appointed by the County Court. Except for public employees who serve by reason of and for the term of their position held, and as provided in Subsection (2) of this section, the term of office of a member is three (3) years. Members of the Committee shall serve until their successors are appointed and qualified. Vacancies shall be filled by the County Court for the balance of the unexpired term.

(2) The initial Solid Waste Committee non-public employee members shall be appointed for the following terms:

(a) One member for a term ending June 30, 1974.

(b) One member for a term ending June 30, 1975.

(3) The County Court shall appoint one of the Committee members as chairman and another as vice chairman, both of whom shall serve at the pleasure of the County Court. Three members of the Committee shall constitute a quorum for the transaction of business. The Committee shall meet at such times as deemed necessary or as called by the County Court. The chairman or any three members of the Committee may call a special meeting with ten days notice to other members of the Committee, provided, however, members may waive such notice.

108.030 DUTIES OF THE SOLID WASTE COMMITTEE

In addition to other duties prescribed by this Ordinance the Committee shall:

(1) Make an annual report containing its recommendations, if any, regarding proposed changes or additions to regulations promulgated by the County Court or amendments to this Ordinance for the purpose of carrying out the intent of this Ordinance.

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(2) In consultation with the Wasco County Sanitarian, Wasco County Health Officer, and Chairman of the Wasco County Planning Commission, develop a long range plan to provide adequate disposal sites and disposal facilities to meet future demands and for regional disposal sites, which plan shall be recommended to the County Court for approval.

(3) In consultation with the Wasco County Sanitarian, Wasco County Health Officer, and Chairman of the Wasco County Planning Commission, and Wasco County Planning Commission, other affected Counties and affected public agencies and private persons, develop minimum standards for the location and operation of disposal sites, including but not limited to protection of adjacent or nearby residents.

(4) Perform such other acts or duties as directed by the County Court or established by other Ordinances or as may be necessary, proper, or desirable to carry out effectively the functions and duties of the Committee.

108.040 REGIONAL SOLID WASTE COMMITTEE

If agreement is reached with one or more Counties pursuant to Section 106.010 of this Ordinance for regional franchising of collection or disposal of solid wastes, the County Court may appoint one or more members of the Committee to serve on a regional committee established by such agreements to advise the Boards of Commissioners or County Courts of the affected Counties.

108.500 COURT APPEAL

All decisions of the County Court under this Ordinance shall be reviewable by the Circuit Court of the State of Oregon for the County of Wasco.

108.510 APPEALS FROM DECISIONS OF THE ADMINISTRATOR

The Committee or the County Court, upon their own motion, or upon the request of an interested person or affected public agency, may review decisions of the Administrator made pursuant to this Ordinance.

108.600 ABATEMENT

(1) The accumulation, storage, collection, transportation, or disposal of solid waste or wastes by any person in violation of this Ordinance or regulations promulgated thereunder is a nuisance, and the County Court or District Attorney may, in addition to other remedies provided by law, institute

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injunction, mandamus, abatement, or other appropriate legal proceedings to temporarily or permanently enjoin or abate such storage, accumulation, collection, transportation, or disposal.

(2) The provisions of this section are in addition to and not in lieu of any criminal prosecution or penalties as provided by this Ordinance or State law.

108.900 PENALTIES

The violations of any of the provisions of this Ordinance shall be deemed to be a misdemeanor and shall be punishable upon conviction by a fine of not more than $500.00, or by imprisonment in the County jail for not more than six months, or both.

An emergency is declared to exist and this Ordinance shall take effect immediately upon passage.

REGULARLY PASSED AND ADOPTED by the County Court of the County of Wasco this 24th day of March, 1994.

WASCO COUNTY COURT

John Mabrey, County Judge

Scott McKay, County Commissioner

C.E. Filbin, County Commissioner

APPROVED AS TO FORM:

Bernard L. Smith
Wasco County District Attorney

ATTEST:

Karen LeBreton
Wasco County Clerk

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