



# CLATSOP COUNTY

## BOARD OF COMMISSIONERS AGENDA

### WORK SESSION

### VIRTUAL MEETING

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Wednesday, December 06, 2023

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**BOARD OF COMMISSIONERS:**

Mark Kujala, Dist. 1 – Chair  
Courtney Bangs, Dist. 4 – Vice Chair  
John Toyooka, Dist. 2  
Pamela Wev, Dist. 3  
Lianne Thompson, Dist. 5

[commissioners@co.clatsop.or.us](mailto:commissioners@co.clatsop.or.us)

**CONTACT:**

800 Exchange, Suite 410  
Astoria, OR 97103  
Phone (503) 325-1000  
Fax (503) 325-8325

[www.co.clatsop.or.us](http://www.co.clatsop.or.us)

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### JOIN THE BOARD OF COMMISSIONERS VIRTUAL MEETING

To access the meeting by phone – Please dial 1-253-215-8782.

Webinar ID: 845 8065 3012

Passcode: 682869

[\(Zoom link\)](#)

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### WORK SESSION: 10:15 AM

*Work Sessions are an opportunity for Board members to discuss issues informally with staff and invited guests. The Board encourages members of the public to attend Work Sessions and listen to the discussion, but there is generally no opportunity for public comment. Members of the public wishing to address the Board are welcome to do so during the Board's regularly scheduled meetings held twice monthly.*

**TOPICS:**

1. County Manager Update {5 min}
- [2.](#) Appointments to the Fair Board {5 min} {Page 3}
- [3.](#) Formal Categorization of certain county owned properties pursuant to Property Management Policies {10 min} {Page 11}
- [4.](#) Solid Waste Ordinance and rules amendment - Recycling {10 min} {Page 34}

**ADJOURNMENT**

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As necessary Executive Session will be held in accordance with but not limited to: ORS 192.660 (2)(d) Labor Negotiations; ORS 192.660 (2)(e) Property Transactions; ORS 192.660 (2)(f) Records exempt from public inspection; ORS 192.660 (2)(h) Legal Counsel

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Agenda packets also available online at [www.co.clatsop.or.us](http://www.co.clatsop.or.us)

**This meeting is accessible to persons with disabilities or wish to attend but do not have computer access or cell phone access. Please call 325-1000 if you require special accommodations at least 48 hours prior to the meeting in order to participate.**

# Board of Commissioners Clatsop County

## WORK SESSION AGENDA ITEM SUMMARY

December 6, 2023

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**Topic:** Appointments to the Fair Board  
**Presented By:** Kyle Sharpsteen, Fairground Manager

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**Informational  
Summary:**

The Clatsop County Fair Board consists of five members of the public that are appointed by the Clatsop County Board of Commissioners, in accordance with ORS 565.210. Each member is appointed for a three-year term or until their respective successors are appointed.

Two of the five board members terms end on December 31, 2023, Matt Bellingham, and Sarah Finn.

A call for applicants was issued on September 18<sup>th</sup>, 2023. At the November 7, 2023 Fair Board work session, the applications were presented to the Fair Board. The County has received 4 applications for consideration. The applicants are, Matt Bellingham, Sarah Finn, Lisa Morley and Virginia Hall.

APPLICANTS			
Name	Commissioner District		Term Expiration Date
Matt Bellingham	3		12.31.2023
Sarah Finn	4		12.31.2023
Lisa Morely	4		N/A
Virginia Hall	4		N/A

**Attachment List**

- A. Copy of Applications received

# Committee Vacancies Application: Submission #59

**Date**

Sat, 10/28/2023 - 00:00

**Applicant Information**

Matthew Bellingham

90171 Logan rd

Astoria. 97103

[matthewbellingham101@gmail.com](mailto:matthewbellingham101@gmail.com)

15033389734

**Current Occupation**

Manager Costco Wholesale

**Past Occupation (if currently retired)**

none

**Years Resident of County**

38

**In which Commissioner District do you reside?**

3

**Committee, Board or Commission Applied For**

Fair Board

**Background (relevant education, training, experience, etc.)**

Three years Fairboard experience. 29 years involved in the clatsop county fair. 19 of which are volunteer.

**Describe your interest in serving on this Committee, Board or Commission:**

I want to have a positive impact on our fairgrounds and county fair. I have a passion for this particular area of our community and I hope to assist in managing it well.

# Committee Vacancies Application: Submission #56

## Date

Tue, 09/19/2023 - 00:00

## Applicant Information

Sarah Finn

35576 Montrose Ct

35576 Montrose Ct

Astoria. 97103

[sfinn@teevinbros.com](mailto:sfinn@teevinbros.com)

503-298-0188

## Current Occupation

VP of Finance & Administration

## Past Occupation (if currently retired)

n/a

## Years Resident of County

43

## In which Commissioner District do you reside?

4

## Committee, Board or Commission Applied For

Fair Board

## Background (relevant education, training, experience, etc.)

I have spent the last year on as a Fair board member.

I have 21 years is business management & accounting experience as well as 16 years in Human Resource & Payroll experience.

I was on the Clatsop County 4-H Association Board from October of 2016 to October of 2020.

I spent a year helping the Non Profit "Helping Hands" with their finances and applications for grants.

I am a life long 4-H participant, starting as a member and now the mother of members.

**Describe your interest in serving on this Committee, Board or Commission:**

My interest in this position is simply to help our community and keep our fairgrounds running smoothly. I feel with my business knowledge and the love for my community would be a large asset for this board. I have loved my time on the board this last year and feel like I have learned a lot and helped our board grow as well.

I personally have rented parts of the facility and have been grateful to be able to host events there over the years. I would like to take part in making that happen for others.

My love for 4-H does come in to play as well. Clatsop County Fair is a very big deal to my family and friends and I would like to help the Fair continue to be successful for years to come.

COMMITTEE, BOARD OR COMMISSION APPLICATION  
CLATSOP COUNTY

Date: 06NOV2023

Lisa Morley

Name

4908 Cedar St

Mailing Address

Astoria OR 97103

City

Street Address: 4908 Cedar St. Astoria OR 97103 Email: lisa.g.morley@gmail.com

Home Telephone: 971.326.0430 Other Telephone: \_\_\_\_\_  
 work  cell phone

Current Occupation Safety Consultant

Past Occupation (if retired) \_\_\_\_\_

Years Resident of County: 8

Do you live within the city limits:  Yes  No

In which Commission District do you reside:  1  2  3  4  5

Committee, Board of Commission Applied for:

1. Clatsop County Fair and Expo Board

2. \_\_\_\_\_

3. \_\_\_\_\_

Background (Relevant education, training, experience, etc.):

Degrees in Animal Science and Environmental Science, working at Behavioral Science Technology (BST) as a Behavioral Science and Neuroscience expert consultant in relation to leadership and safety for the last 15 years. Worked as buyer, master trainer and Project Manager for Intel culture for 13 years prior to that, and as Technical Analyst for the President of Westronics. I also worked as a construction Project Manager after graduation from Texas A&M @ Prairie View, TX.

Please complete other side →

**Describe your interest in serving on this Board, Committee or Commission:**

I have strong skills in planning, budgeting, training, construction and safety. In all of my jobs, one of my favourite side gigs, has always been event planning. I've done so for work events and committees, for friends and family, all the way to our home and neighborhood park here in Astoria.

**Work related:**

Created and/or managed several team events at Intel.

Reconfigured a 30 year long, \$10M annual recognition event for appx 10,000 leaders at Intel.

Developed quarterly team-building events for my teams at Intel, then taught my techniques at both Intel and BST.

Worked on a committee (both internal members, along with external client members) at BST (now Dekra N.A.) to create, schedule, promote, conduct, and evaluate our annual Safety In Action conference, with our largest attendance being 3500 participants.

**Non-work related:**

Most recently, after managing 2 drives to "save our park" (Birch Park in the Alderbrook neighborhood here in Astoria), I created:

- \* Friends of Alderbrook Parks
- \* Clean the Park
- \* Movies in the Park
- \* Art in the Park
- \* Game Day in the Park
- \* Christmas Tree Decorating in the Park

(You can see some of those results on the facebook page - <https://www.facebook.com/FriendsOfAlderbrookParks> )

**Home related:**

My life partner and I (truly, he does almost ALL of the work...I'm the "planner", but he's the one that makes it happen!!) do annual decorating at our house for the kids, neighbors and town to enjoy. :- ) It really brings me the most joy :- ) (He's really great with his high-quality drone as well.)

Here are a few links to those events:

<https://www.youtube.com/watch?v=An3xrbJDgig&t=100s> - Christmas

<https://www.youtube.com/watch?v=XTKumQaftV0> - Halloween

<https://www.youtube.com/watch?v=wDARh7ljCCA> - Easter

<https://www.youtube.com/watch?v=rS7pGIY7gSA> - 4th of July

<https://www.youtube.com/watch?v=2oVJ0Q-I4AQ&t=1098s> - Halloween (bonus)

Lisa Morley

Signature

**Return Form To: County Manager's Office  
800 Exchange St., Ste. 410  
Astoria, OR 97103  
Fax: 325-8325**

email: [commissioners@co.clatsop.or.us](mailto:commissioners@co.clatsop.or.us)



COMMITTEE, BOARD OR COMMISSION APPLICATION  
CLATSOP COUNTY

Date: 9-15-2023

Virginia Hall

Name

92192 Clover Road

Mailing Address

Astoria, OR 97103

City

Street Address: same

Email: kjseaside@msn.com

Home Telephone: 503-325-0998

Other Telephone: \_\_\_\_\_

work  cell phone

Current Occupation Retired, Teach at CCC

Past Occupation (if retired) Goldsmith

Years Resident of County: 25 +

Do you live within the city limits:  Yes  No

In which Commission District do you reside:  1  2  3  4  5

Committee, Board of Commission Applied for:

1. Clatsop County Fair Board

2. \_\_\_\_\_

3. \_\_\_\_\_

Background (Relevant education, training, experience, etc.):

4-H Livestock, Horse and Foods Exhibiter

Business Owner

Market Gardener

Teacher of handcrafts and metalworking

Computer programming, psychology, finances and tax preparation studies

Please complete other side →

Describe your interest in serving on this Board, Committee or Commission:

I am interested in large events and every aspect of their administration. My unique background supports my ability to analyze layouts and brainstorm possible situations arising when diverse human participants gather in unfamiliar and unpredictable surroundings. I have experience in research and outsourcing. I have spent time recently studying Oregon laws and can navigate the internet quickly to access them for various purposes. I am not a stranger to professional negotiations.

I was at the fair every day this year and am alarmed by the lack of community participation. Something must change in order for the fair to continue.

*Virginia R Hall*

Signature

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**800 Exchange St., Ste. 410**  
**Astoria, OR 97103**  
**Fax: 325-8325**  
email: [commissioners@co.clatsop.or.us](mailto:commissioners@co.clatsop.or.us)

# Board of Commissioners Clatsop County

## WORK SESSION AGENDA ITEM SUMMARY

December 6, 2023

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**Topic:** Formal Categorization of certain county owned properties pursuant to Property Management Policies

**Presented By:** Suzanne Johnson, Assessor

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**Informational Summary:** On August 2, 2023 the County Property Categorization Committee met to review several properties to determine future use. These properties were received through property tax foreclosure.

The current Property Management Policy adopted in 2012 requires the committee to review the properties and make recommendations to the Board based on the categories listed in the policy.

Thirteen properties were discussed and the recommended categories are detailed as attached.

### Attachment List

- A. Property Descriptions/Maps
- B. Property Management Policy



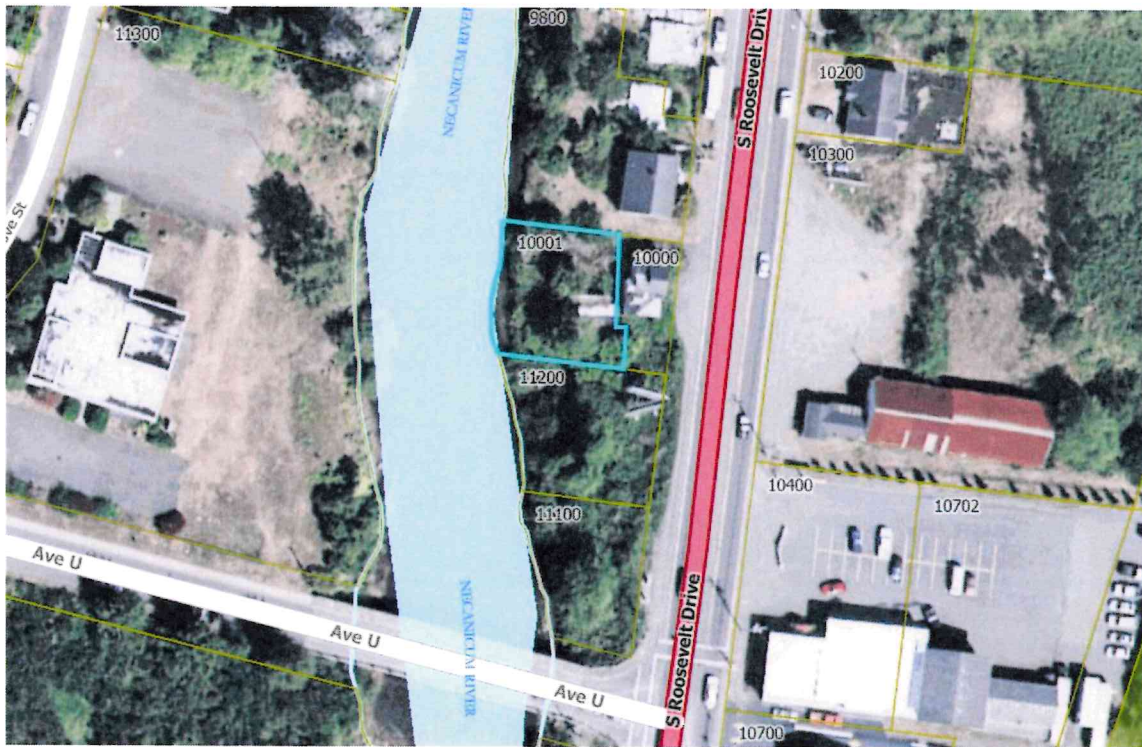
**PARCEL # 23-01**

<b>MAP # 50728DB00800 – Acct ID#3739</b>	<b>Recommended Category: Auction</b>
<b>Real Market Value \$114,022</b>	<b>Assessed Value \$49,770</b>
<b>Acreage: .51</b>	<b>General Area: 82396 Vinemapple Rd</b>
<b>Zoning: RA-1 Residential Agriculture</b>	<b>Special Overlay:</b>
<b>Comments: Vacant property with an un-maintained outbuilding and several abandoned cars. Possible permitted septic system and drain field that the neighboring RV's may have used for several years. Currently on the list for NCWA/EPA historic roadway runoff and tire contamination testing.</b>	



**PARCEL # 23-02**

<b>MAP # 61028AB10001 - Acct ID#13804</b>	<b>Recommended Category: Auction</b>
<b>Real Market Value \$131,133</b>	<b>Assessed Value \$81,675</b>
<b>Acreage: .14</b>	<b>General Area: 2100 S Roosevelt Drive</b>
<b>Zoning: General Commercial w/Aquatic Conservation</b>	<b>Special Overlay:</b>
<b>Necanicum river front and close proximity to busy Hwy 101 (access to and from by Hwy 101). Lot sits off of S Roosevelt Dr below TL 10000 and slopes down to the Necanicum River. Improvement has been in a state of remodel since at least 2011. Septic ? TL 10000 recently sold: 3-28-23 for \$130,000.</b>	



**PARCEL # 23-03**

<b>MAP # 80822B002100 – Acct #20450</b>	<b>Recommended Category: Auction</b>
<b>Real Market Value \$87,762</b>	<b>Assessed Value \$16,440</b>
<b>Acreage: .59</b>	<b>General Area: Old Hwy 30</b>
<b>Zoning: KS-RCR</b>	<b>Special Overlay:</b>
<b>Comments: Unimproved, rectangular, rolling wooded vacant Homesite. Old Hwy 30 frontage along west boundary.</b>	



**PARCEL # 23-04**

<b>MAP #50819B000300 – Acct #4101</b>	<b>Recommended Category: Auction</b>
<b>Real Market Value \$4,016</b>	<b>Assessed Value \$2,230</b>
<b>Acreage: 3.46</b>	<b>General Area: 1 mile past Hwy 53 Junction on Hwy 26</b>
<b>Zoning: F-80</b>	<b>Special Overlay:</b>
<b>Comments: Specially assessed as undesignated forest. Foreclosed 10-19-90. Notes in file indicate several attempts to purchase over the years.</b> <ul style="list-style-type: none"><li>• Numerous notes over the years regarding garbage being dumped, gravel driveway built, 4-wheeler activity and etc.</li><li>• Grandson of foreclosed owner unsuccessfully requested to purchase in 2000.</li><li>• Grandson remains interested in purchasing.</li></ul>	





**PARCEL # 22-01 Updated to 23-05**

MAP #40707C001300 – Acct ID#1422	Recommended Category: Auction
Real Market Value \$150,849	Assessed Value \$58,533
Acreage: 5.05	General Area: Lower Nehalem Road
Zoning: RA-5	Special Overlay: Geographic Hazard Overlay - Landslide
<p><b>Comments:</b> Vacant land in the Sha-Ne-Mah subdivision (Unrecorded) with an easement to the property recorded in 1973.</p> <ul style="list-style-type: none"> <li><b>2022 Suggested Category by Committee – Auction</b></li> </ul>	



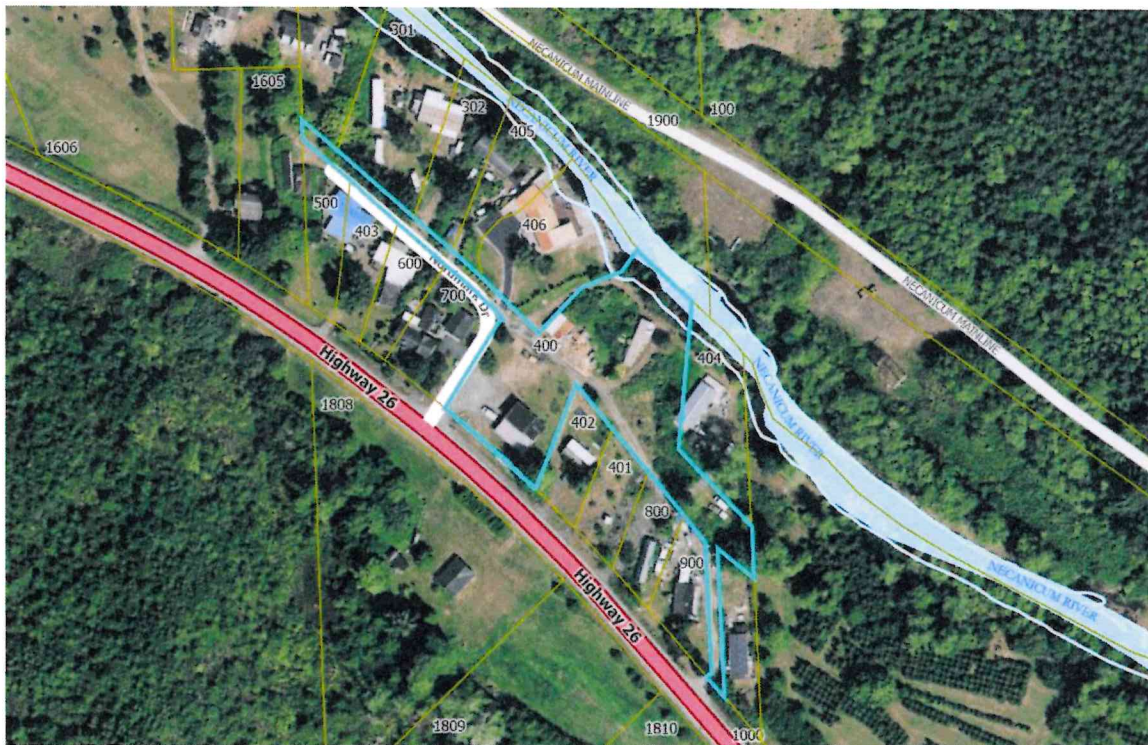
**PARCEL # 22-02 Updated to 23-06**

<b>MAP # 50732AC001900 – Acct #3924</b>	<b>Recommended Category: Auction</b>
<b>Real Market Value \$192,370</b>	<b>Assessed Value \$81,137</b>
<b>Acreage: .40</b>	<b>General Area: 82080 Red Bluff Rd</b>
<b>Zoning: RA-1</b>	<b>Special Overlay:</b>
<b>Comments:</b> No doors nor windows in this house, much deferred maintenance, if not a tear down. <ul style="list-style-type: none"><li>• <b>2022 Suggested Category by Committee - Auction</b></li></ul>	



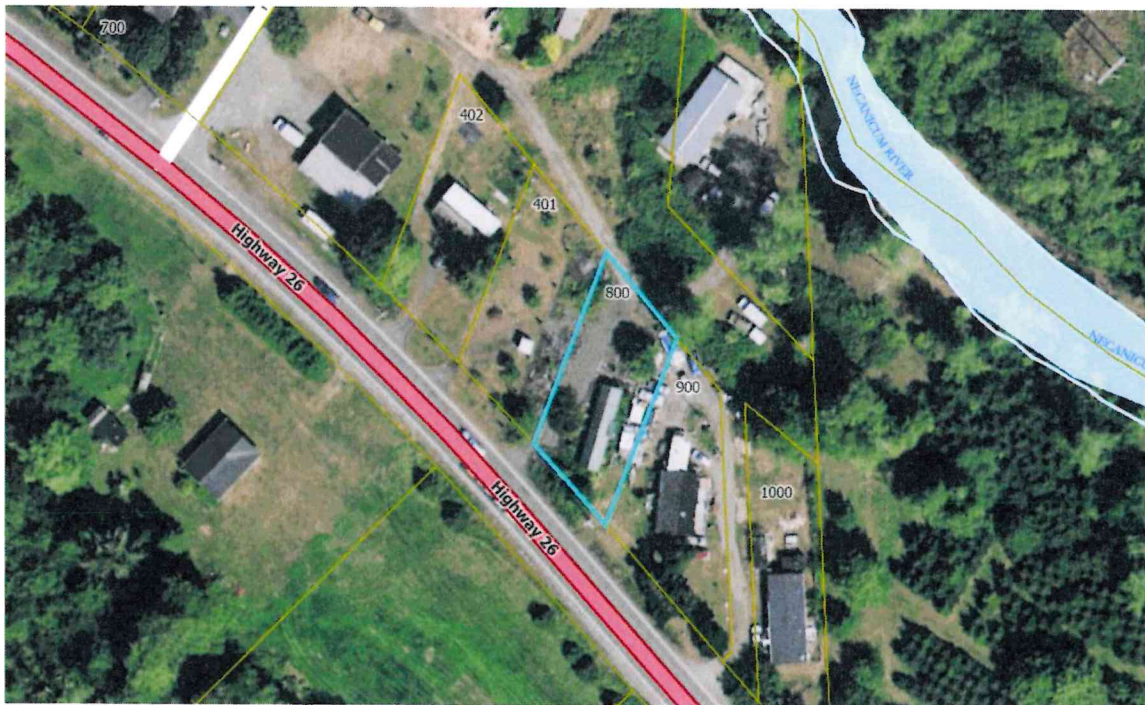
**PARCEL #22-04 Updated to 23-07**

<b>MAP #51010DA 00400- Acct #50895-MS Acct #33330</b>	<b>Recommended Category: Auction</b>
<b>Real Market Value \$284,284</b>	<b>Assessed Value \$198,813</b>
<b>Acreage: 2.91</b>	<b>General Area: 84375 Nordmark Drive, off of US Hwy 26</b>
<b>Zoning: RA-2</b>	<b>Special Overlay: Portion in Geo Hazard Overlay and in a Floodway</b>
<b>Comments:</b> Brought before the Categorization committee in 2022. Looked at for possible future County Use.  Deferred maintenance, has two out buildings and one Manufactured Structure.	



**PARCEL # 22-05 Updated to 23-08**

<b>MAP #51010DA00800-Acct #4652-33341</b>	<b>Recommended Category: Auction</b>
<b>Real Market Value \$59,269</b>	<b>Assessed Value \$38,000</b>
<b>Acreage: .25</b>	<b>General Area: 33731 US Hwy 26</b>
<b>Zoning: RA-2</b>	<b>Special Overlay: Floodway</b>
<b>Comments:</b> Presented to Categorization Committee in 2022. Held for review at that time.  Has a MH leaning on its side. May have additional buildings as well, or neighbor encroaching.	



**PARCEL #22-06 Updated to 23-09**

<b>MAP #60601AA01800-Acct ID# 7219</b>	<b>Recommended Category: Auction</b>
<b>Real Market Value \$9,850</b>	<b>Assessed Value \$6,136</b>
<b>Acreage: .25</b>	<b>General Area: 71906 North Shore Drive Fishhawk Lake, Birkenfeld</b>
<b>Zoning: RSA-SFR</b>	<b>Special Overlay:</b>
<b>Comments: Lot is steep from road to lake. Difficult site to build on.</b> <ul style="list-style-type: none"><li><b>Fishhawk Lake Reserve and Community owns all tax lots from 2600-1800 except tax lot 2500 and 1700 on the North side of Northshore Drive</b></li></ul>	



**PARCEL #22-07 Updated to 23-10**

<p><b>MAP #61003CD01516-Acct #54658</b></p>	<p><b>Recommended Category: Future County Use</b></p>
<p><b>Real Market Value \$139,271</b></p>	<p><b>Assessed Value \$88,160</b></p>
<p><b>Acreage: .23</b></p>	<p><b>General Area: Vacant Lot off of Kershul Circle in Gearhart</b></p>
<p><b>Zoning: RCDP-Residential Commercial Planned Community</b></p>	<p><b>Special Overlay: Tsunami Evacuation Zone</b></p>
<p><b>Comments: On City of Gearhart water and buildable. Septic.</b></p> <ul style="list-style-type: none"> <li>• <b>2022 Suggested Category – Auction</b></li> <li>• <b>2023 Category updated to Future County Use</b></li> </ul>	



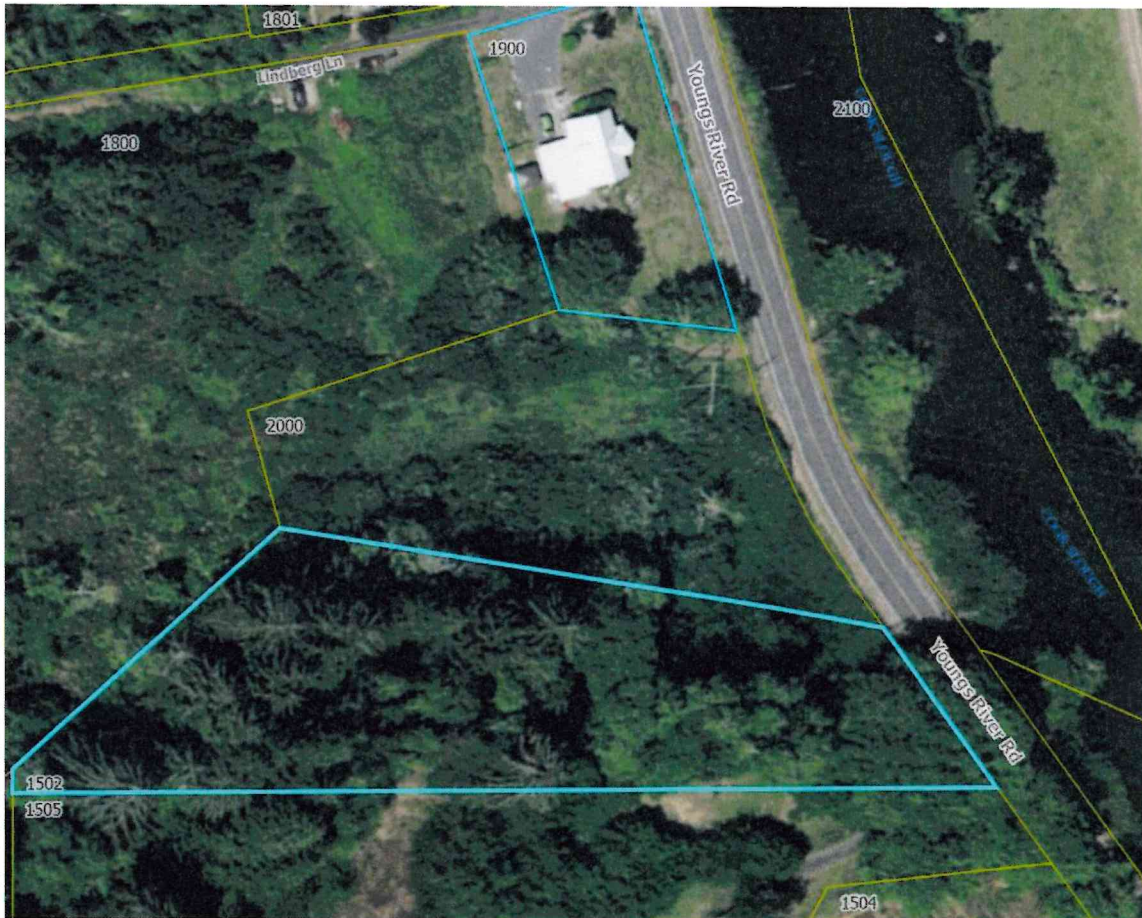
**PARCEL #22-09 Updated to 23-11**

<b>MAP #81005CD01700-Acct #28532</b>	<b>Recommended Category: Future County Use</b>
<b>Real Market Value \$69,066</b>	<b>Assessed Value \$14,322</b>
<b>Acreage: .25</b>	<b>General Area: Vacant Lot off of 3<sup>rd</sup> Ave in Hammond</b>
<b>Zoning: RH</b>	<b>Special Overlay: Small area in wetlands on the south side of the lot</b>
<b>Comments:</b> <ul style="list-style-type: none"><li>• <b>2022 Suggested Category – Future County Use</b></li><li>• <b>2023 – Future County Use</b></li></ul>	



**PARCEL #22-08 Updated to 23-12**

<b>MAP #809290001502-Acct #27658</b>	<b>Recommended Category: Auction</b>
<b>Real Market Value \$164,364</b>	<b>Assessed Value \$18,502</b>
<b>Acreage: 1.50</b>	<b>General Area: Vacant Lot off of Youngs River Road</b>
<b>Zoning: RCR</b>	<b>Special Overlay:</b>
<b>Comments:</b> <ul style="list-style-type: none"><li>• <b>2022 Suggested Category – Auction</b></li><li>• <b>Currently valued as buildable site, but could be questionable.</b></li></ul>	





**PARCEL #23-13**

<b>MAP #50732DB00601 – 602 – 603 Acct #3961-3962-3963</b>	<b>Recommended Category: Auction</b>
<b>Real Market Value \$109,265 (total)</b>	<b>Assessed Value \$43,443 (total)</b>
<b>Acreage: .73 (total)</b>	<b>General Area: 81899 Red Bluff Road</b>
<b>Zoning: RA-1</b>	<b>Special Overlay:</b>
<b>Comments: Currently vacant, but has a long Code Enforcement history.</b>  <b>Application for Grant with DEQ to clean up and removed structures and cars unsuccessful to our knowledge.</b>  <b>2022 categorization left under review.</b>	





IN THE BOARD OF COUNTY COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON

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IN THE MATTER OF UPDATING )  
COUNTY PROPERTY ) RESOLUTION AND  
MANAGEMENT POLICIES ) ORDER  
)

WHEREAS, The Clatsop County Commission finds that their Property Management Policies should be reviewed and updated from time to time; and

WHEREAS, the Board of County Commissioners deems it in the County's best interest to amend these policies; NOW, THEREFORE

IT IS HEREBY RESOLVED that the Property Management Policies attached hereto as Exhibit "A" are hereby approved as amended by the Board of County Commissioners.

DATED this 25<sup>th</sup> day of April 2012

BOARD OF COUNTY COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON  
  
Peter Huhtala, Chairperson

**PROPERTY MANAGEMENT POLICY**  
**Adopted by the Clatsop County Board of Commissioners**

**ADOPTED:** \_\_\_\_\_ **2012**

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**PURPOSE:**

The purpose of the Property Management program is to maintain a complete and accurate inventory of County-owned or tax-foreclosed real estate and to return surplus properties to the property tax rolls through a fair and equitable manner.

This policy establishes procedures and criteria for categorizing County-owned property for future use, managing those properties and for selling, leasing or trading County-owned or tax-foreclosed land.

**PROCEDURES:**

**I. CATEGORIZATION OF COUNTY-OWNED PROPERTIES**

Staff will inventory and identify for future use all real properties owned by the County and recommend the appropriate category for each parcel to the Board of Commissioners for approval. Staff will review the categorization of parcels and make recommendations to the Board at least annually

**A.** The County Property Categorization Committee, generally to include the County Manager, Public Works Director, Surveyor, Assessment and Taxation Director, Chief Deputy Assessor and Tax Collector, Appraisal Supervisor, Community Development Director and Property Specialist, will review the categorization of parcels and make recommendations to the Board of Commissioners based on these policies.

**B.** The Categories are:

**1. Properties to be Sold at Public Auction or Private Sale**

This category includes most properties considered surplus. Statutory exceptions are described in other categories. State law requires surplus tax-foreclosed property be sold at public auction unless it cannot be built on and qualifies for private sale under ORS 275.225. For a public auction, a minimum bid is established by either a fee appraisal or an estimated market value determined by the County Assessor. Properties may be designated for sale for cash or contract and may be designated for sale by oral auction or written bid

**2. Properties Held for County Government Use**

This category includes properties held for future County facilities or properties held for trades, for wetlands mitigation or other uses.

The County will follow Oregon Revised Statutes regarding payment of Local Improvement District assessments on County-owned land.

**3. Properties Held for Other Governments**

This category includes street plugs, rights of way and other properties that are within other governmental jurisdiction.

Property sold, traded or given to a government outside the auction process must be retained by that government and used for a public purpose.

#### **4. Properties On Which the County Holds the Mineral Rights Only**

The County may retain mineral rights on parcels that may have future County use, such as a rock quarry.

#### **5. Properties Held for Industrial Development**

State law authorizes the County to sell or otherwise convey County-owned property for "industrial uses." Industrial uses include manufacturing, commercial, research and development and warehousing activities. Property to be used for industrial purposes can be sold, traded or conveyed to an individual or business through private negotiations without going through the auction process. Proceeds from the sale of tax-foreclosed property are distributed to the appropriate taxing agencies, unless the property is zoned industrial and the Board of Commissioners designates the proceeds for industrial development investment at County facilities.

#### **6. Properties Held for Right-of-Way Purposes**

This category consists of properties that will be incorporated as rights-of-way or dedicated to the public for road purposes. Parcels incorporated in the right-of-way or dedicated to the public will be deleted from the County's inventory.

#### **7. Properties Held for Future Park and Recreational Use**

This category consists of parcels of land that have been received by the County through the tax foreclosure process, received as a donation, purchased or otherwise acquired, and that are held in trust for future recreational or possible park use.

Parcels will be held for potential parks use if so identified in the County's officially adopted County Recreation Lands and Parks Master Plan. Generally, parcels held for this purpose should be held for no more than five years and will be reviewed by the Property Specialist in a report to the Board of Commissioners every five years.

In accordance with the Recreational Master Plan, Clatsop County shall utilize the County Recreational Lands Committee as a primary public review body for potential County land sales involving County Park or recreational lands or lands adjoining County park properties.

No existing County-owned recreational lands shall be sold, traded or exchanged without the input of the Clatsop County Recreational Lands Committee.

State law authorizes the County to sell or otherwise convey public parks or recreational areas so designated by Order of the Board upon a finding that the sale or conveyance is in the best interest of the public. Any proceeds from the conveyance shall be held for maintenance and improvement of existing parks and recreation lands or future acquisition of lands to be set aside for park or recreational purposes.

Recreational lands will be retained in their natural state and not developed or operated as County Parks without the approval of the Board of Commissioners.

## **8. Properties Held for Timber Harvest**

This category consists of parcels of land that the County is holding for potential timber harvest and forest management.

## **9. Properties Being Used by the County**

This category consists of the properties that are currently in use by the County. These include the Courthouse, Public Works Building, Judge Guy Boyington Building, 800-820 Exchange Street complex, Animal Shelter, Community Corrections Transition Center and all other buildings and land used by the County, existing County Parks and those properties under active lease by the County to other parties.

From time to time, Clatsop County may lease property from a private party for special needs, such as stockpiles, storage or program needs.

## **10. Surplus Property Leased to a Private Party**

Surplus property may be leased to a private party as office space, tower sites, substations, etc., for profit as per contract with terms.

- C. First priority will be given to the County's needs and interest for the use of County owned land. Generally, the County will designate that property for the County's future use.
- D. The next priority should be other local governments that show a public need and demonstrate the ability to purchase the property within three years.
- E. All properties will be placed in Category 1 unless identified as in another category.
- F. Tax-foreclosed land may be held for trade if unsold at public auction pursuant to Oregon Revised Statutes.

## **II. SALE OR TRADE OF PROPERTIES**

### **A. DISTRIBUTION OF SALE PROCEEDS**

- 1. The proceeds of Sheriff's sales or public auctions shall be distributed as provided in ORS 275.275. Prior to distribution to the taxing districts or any other use of land sale proceeds, the County will reimburse itself for the incurred management costs of those properties from the sale proceeds. These costs include but are not limited to staff time, publication costs, preliminary title searches, recording costs, appraisal fees and timber cruises.
- 2. The County will record all deeds and Memorandums of Sale and will reimburse itself for recording costs from the proceeds of the sale.

### **B. SALE OR TRANSFER TO NONPROFITS**

- 1. Nonprofit organizations that qualify as tax-exempt organizations under Section 501(c)(3) of the Internal Revenue Code and meet the criteria of ORS 271.330 will be offered an opportunity to acquire any properties the County may receive through the tax foreclosure process that are not being used for a County

purpose. The property must be used for a public purpose and must be within their local jurisdiction.

2. The property may be transferred or sold at any price the Board of County Commissioners deems appropriate if the proposed use is found to be in the best interests of the County. The criteria set forth in C.1. below shall be considered. The use of the property shall be restricted to the public purpose for which it is transferred, and a reversionary interest shall be retained, unless waived pursuant to ORS 271.330(5). The reversionary clause should be waived for property purchased for full market value.
3. Nonprofit organizations must provide a copy of their tax exempt letter, current bylaws, and corporate registration when making a request to acquire County property.

### **C. SALE OR TRANSFER TO OTHER GOVERNMENTS**

1. Property sold, traded or given to a government outside the auction process must be retained by that government and used for a public purpose. The County should seek full compensation from other governments for tax-foreclosed property unless the Board determines it is in the County's best interest to donate the property or accept less than market value. The following criteria shall be considered:
  - Whether the value of the property is significant;
  - The possibility of finding a private purchaser;
  - The liability or potential maintenance costs if the County retains the property;
  - Cost of disposing of the property at public auction or negotiated sale vs. potential sale proceeds;
  - Amount of back taxes owed on the property and the willingness of the local government to pay the County to cover its costs and taxes owed;
  - The intended public use by the local government and whether the use would provide significant benefits to county residents and taxpayers as whole rather than benefiting primarily local residents and taxpayers.
2. Property should be transferred or sold with a reversionary clause for not less than 20 years, unless the Board determines the reversionary clause should be waived pursuant to ORS 271.330(5). The reversionary clause should be waived for all property purchased for fair market value.

### **D. REVERSIONARY RIGHTS**

1. The County will uniformly enforce its ownership rights the reversionary clause in any deed or other conveyance to a public body or non-profit corporation.
2. The County will examine the specific language of the instrument and the purpose for which conveyance was made.
3. If the document conveying property to a municipality without consideration does not expressly mention a purpose or include a reversionary clause, the County

shall take a position that the conveyance was made for a public purpose and that a reversion to the County was required by ORS 271.330.

4. In a dispute over reversionary rights, the County should first attempt to economically resolve the matter by mutual agreement in the spirit of the original conveyance. If agreement is not reached, the County will seek resolution through appropriate judicial means.
5. All property re-acquired by the County through a reversionary clause will be categorized and managed pursuant to County Property Management Policies.

#### **E. PUBLIC SALE OF SURPLUS PROPERTIES BY AUCTION**

1. Parcels in category 1 will be offered for sale at public auction to the general public in a fair and equitable manner.
2. Staff will strive to hold at least one public auction each year to dispose of property, unless the Assessment and Taxation Director determines there is insufficient property available to sell.
3. Before each public auction, the Property Management division will present the date of the sale and the notice of sale listing the properties and minimum bids and whether the sale will be cash or contract, to the Board of Commissioners for approval.

The Property Specialist, Assessment and Taxation Director, Chief Deputy Assessor and Tax Collector and the County Manager are authorized to remove property from the public auction during the two weeks prior to the sale. The Board shall be promptly notified with an explanation of the circumstances justifying the removal.

4. Contiguous properties should generally be grouped together for sale as one unit of ownership. This policy will allow the County to dispose of property and receive the best return for its surplus property. Parcels to be grouped together shall be annotated on the inventory to be sold as one unit of ownership.
5. Sales under \$20,000 will be for cash only. Sales over that amount may be offered on contract. The interest rate will be a fixed rate set as to the farm credit service rate. The rate will be that rate effective the January of the year of the start of the contract and will be applied to the unpaid balance per annum.
6. Staff shall provide Instruction Sheets for prospective bidders detailing the terms and conditions of sales and bidder responsibilities during registration at all public auctions.
7. High bidders who do not pay for property by the deadline established for payment are prohibited from bidding or purchasing County-owned property for two years after the date of the sale.
8. The Clatsop County Board of Commissioners reserves the right to reject any and all offers on real property. In the event the County does not accept an offer or removes a property from sale after taking bids, bidders will be refunded all deposit monies on that property.
9. Sales may also be conducted by written bid. To conduct a written bid auction, the County will advertise the property that is for sale and date and time of bid

closing in a newspaper of general circulation in the County at least 15 days before date of opening. Written bids received will be secured unopened until the bid closing. All submitted bids must be valid for a period of 30 days from date of opening. Property will be sold to the highest and best bidder who meets the conditions of the sale.

**F. DISPOSITION OF PROPERTY THAT DID NOT SELL AT AUCTION**

1. After each auction, surplus properties that did not sell will be made available for private sale for a price not less than 80% of the established minimum bid to the first person offering to purchase it. Any offer to purchase must be in writing, and is only accepted when approved by the Board of Commissioners.
2. Property that has not sold within one year of the first auction will be re-evaluated by the County Categorization Committee and either re-auctioned by oral bid or sold by written bid auction. The Categorization Committee shall establish the revised minimum bid price.
3. Tax foreclosed land that did not sell at auction may be exchanged for land of equal appraised value pursuant to ORS 275.060.

**G. UNBUILDABLE LAND**

1. Unbuildable tax-foreclosed property as defined by ORS 275.225 may be offered to contiguous property owners through private sale or trade. These parcels are usually small slivers of land that are of value only to the adjoining property owner and require time and expense to the County to manage.
2. The Property Specialist will maintain a list of these properties and initiate contact with contiguous owners. In identifying potential purchasers the property manager will take into account access to surrounding properties.
3. With the recommendation of staff, the Board of Commissioners will establish the minimum bids; authorize the Property Specialist to accept offers that meet or exceed the minimum bid and to prepare the deeds, and authorize the Chairperson of the Board of Commissioners or designee to sign Quit Claim deeds and purchase agreements.

**H. EXCHANGES**

Tax foreclosed property may be exchanged for property of equal value, pursuant to ORS 271.340, however, the property received shall be managed as tax foreclosed property.

**I. MINERAL RIGHTS**

Mineral rights may be sold as provided in ORS 275.312-316 or by public sale.

**IV. MISCELLANEOUS**

- A. The County may consider easements, sales or leases of County-owned parcels that involve lease agreements with the Department of State Lands and adjoining Floating Recreational Cabins if the applicant is in compliance with state and local land use regulations.
- B. The Property Management Specialist will be the Official Manager of the Clatsop Plains Pioneer Cemetery with the authority to operate a cemetery in municipal



ownership. This position is responsible for informing the Oregon Mortuary and Cemetery Board of any changes in management and care of the cemetery and for filing forms with the controlling authority.

# Board of Commissioners Clatsop County

## AGENDA ITEM SUMMARY

December 6, 2023

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**Agenda Title:** Solid Waste Ordinance and rules amendment - Recycling  
**Category:** Business Agenda  
**Presented By:** Anthony Pope – County Counsel

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**Issue Before the Commission:** Proposed update to the Solid waste ordinance and rules regarding the curbside recycling requirements.

**Informational Summary:** On February 23<sup>rd</sup>, 2022, the County Board of Commissioners voted on Ordinance No. 2021-06 establishing the requirement for Solid Waste Collectors to obtain a franchise from the County.

On July 13, 2022, the County Board of Commissioners passed the Solid Waste and Recycling Administrative Rules. These rules included the provision that every residence in unincorporated Clatsop County would receive curbside recycling.

After further review and discussions with the haulers, it was found that it would not be economically feasible to offer curbside recycling to all residences in the unincorporated County. This is due to the low population density and distance between residences in the more rural areas of the County.

It is proposed that the Administrative Rules be altered to include definitions for Rural Residential and Suburban Rural Customers. Suburban Rural Customers would receive curbside recycling while recycling depots would be set up in area's with Rural Residential Customers.

County Staff will work with the Haulers to determine these designations with the goal of providing curbside recycling to as many citizens as feasible.

**Fiscal Impact:** None

### Attachment List

- A. Proposed Ordinance – Redline version

B. Proposed Rules – Redline version

## Chapter 7.04 SOLID WASTE CONTROL

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### 7.04.010 Policy.

To protect the health, safety and welfare of the people of the County, the Board has determined the necessity of providing a coordinated countywide program for the safe, economical and efficient collection, storage, transportation and disposal of wastes and solid wastes, and to ensure adequate standards of service for said collection, storage, transportation and disposal of wastes and solid wastes, and this chapter shall be liberally construed for the accomplishment of these purposes.

### 7.04.020 Definitions.

In addition to the definitions provided in ORS 459.005, and as used in this chapter, unless the context requires otherwise:

- A. "Collection vehicle" is any vehicle used to collect or transport waste or solid waste.
- B. "Franchise" means a sanitary service franchise issued by the Board.
- C. "Solid waste collection service" or "service" means service that provides for collection of solid waste or recyclables or both, as described in ORS 459 and 459A.
- D. "Service area" means the unincorporated portion(s) of Clatsop County in which a hauler is permitted to operate.

### 7.04.030 Administration—Responsibility.

The County Manager under the authority of the Board shall be responsible for the administration and enforcement of this chapter. The County Manager may delegate any or all of the duties.

### 7.04.040 Administration—Authority.

The County Manager shall have authority to certify to all official acts, and require the attendance of witnesses at public hearings before the Board; produce relevant documents at public hearings; provide testimony, and enter or authorize personnel to enter upon the business premises of any person regulated by this chapter at reasonable times to determine compliance with this chapter and the rules and regulations promulgated by the Board.

### 7.04.050 Rules and regulations—Promulgation.

The Board shall promulgate reasonable rules and regulations pertaining to the administration of this chapter and for the collection, storage, transportation an

d disposal of waste and solid waste, including but not limited to the following:

- A. Standards of service to be provided to the public;
- B. Collection, storage, transportation and disposal of wastes and solid wastes to prevent:
  - 1. Vector production and sustenance,

2. Conditions for transmission of diseases to people or animal,
  3. Air pollution by dust, fumes, gas, smoke, odors and particulate matter or any combination thereof,
  4. Fire hazards,
  5. Hazards to service or disposal workers or to the public;
- C. Collection of waste and solid wastes to prevent vector nuisances and air and water pollution through frequency and regularity of collection and by proper design, construction, operation and maintenance of collection equipment;
  - D. Storage of wastes and solid wastes at the point of origin to eliminate conditions conducive to the creation of vector nuisances and air and water pollution through proper container construction and design and through waste and solid waste handling practices including, but not limited to, Container Maintenance, as defined in the County's Solid Waste and Recycling Program Administrative Rules;
  - E. Construction, loading and operation of collection vehicles used in performing service that is consistent with industry standards and for the purposes of preventing the contents thereof from dropping, sifting, leaking or escaping onto public roads and highways;
  - F. Disposition at disposal sites, to the extent that no other regulatory or governmental body has jurisdiction over such matters and provided that they do not conflict with any other rules or regulations.

**7.04.055 Business recycling requirement.**

All businesses within the County shall comply with waste prevention, recycling and composting requirements as set forth in the County's Solid Waste and Recycling Program Administrative Rules. For the purpose of this section, the term business shall mean any commercial or nonprofit entity, such as a store, office, manufacturing and industry facility, restaurant, warehouse, school, college, university, government, hospital and other similar entities doing business within the unincorporated county, but excludes businesses permitted in residences.

**7.04.120 Franchise—Issuance.**

Except as otherwise provided in this chapter, it is unlawful for any person to collect, store, transport or dispose of any waste or solid waste, or to offer or advertise to provide services to collect, store, transport or dispose of any waste or solid waste, in the unincorporated areas of the County for compensation unless first obtaining a franchise issued by the Board; or after issuance of a franchise, for the applicable franchisee to collect, store, transport or dispose of waste or solid waste in a service area not covered by the applicable franchise, except as otherwise provided by this chapter.

**7.04.130 Exemptions.**

Franchises shall not be required of:

- A. Cities that collect, store, transport or dispose of waste or solid waste;
- B. Federal or state agencies that collect, store, transport or dispose of waste or solid wastes or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for the federal or state agency;
- C. Other persons, practices, processes, businesses or wastes exempted by a written resolution of the Board after receipt of a recommendation of the County Manager on the basis of findings made after public hearing that the same is not necessary to the implementation of the County or a regional solid waste management plan.
- D. Persons transporting waste or solid waste collected outside the unincorporated areas of the County.
- E. Any nonprofit or charitable individual or organization engaged in collection of recyclable materials for profit from customers within an urban growth boundary. The County Manager may require proof of nonprofit or charitable status in determining whether this exemption applies.
- F. Persons collecting and transporting sewage sludge, septic tank and cesspool pumping or other sludge.
- G. Persons collecting and transporting discarded or abandoned vehicles or parts thereof.
- H. Persons collecting or transporting dead animals.
- I. Persons collecting, storing, transporting, or disposing of waste or solid waste resulting from a disaster event pursuant to a contract with federal, state or local agencies issued during a state of emergency declared pursuant to Clatsop County Code Section 1.04.070.

**7.04.140 Compensation defined.**

As used in Sections 7.04.120, "compensation" includes the flow of consideration from the person owning or possessing the waste or solid waste to the person collecting, storing, transporting or disposing of the same or the flow of consideration from the person collecting, storing, transporting or disposing of waste or solid waste to the person owning or possessing the same.

**7.04.150 Franchise—Application form.**

Applications for franchises shall be on forms provided by the County Manager. The applications shall be filed with the County to determine whether the applicant meets the requirements specified in Section 7.04.170.

**7.04.160 Franchise—Information required.**

Applicants for franchises shall state:

- A. The types of service to be provided within a specified service area;
- B. The rates to be charged for this service;
- C. When the applicant already provides service to all or part of the area, a sworn and verified statement of all customers served within the area and a map showing service routes and boundaries.

**7.04.170 Franchise—Requirements.**

- A. The applicant must show to the satisfaction of the Board the following:
  - 1. Has available equipment, facilities and personnel sufficient to meet the standards of equipment and service established by this chapter and ORS Chapter 459, and regulations promulgated thereunder;
  - 2. Is registered with the State of Oregon Corporation Division Business Registry; and
  - 3. Has comprehensive general liability insurance, including but not limited to auto liability and workers compensation insurance, in the amounts of, and as established in the Solid Waste and Recycling Administrative Rules.
- B. In addition to the foregoing requirements, the applicant must:
  - 1. Submit with an application for a franchise a sworn and verified statement of all disposal sites used, operated or otherwise patronized by the applicant, and a sworn declaration that applicant will dispose of all solid wastes at disposal sites approved by the Board and the Board shall approve all reasonably requested changes to the list of approved disposal sites that may be needed throughout the term of any franchise;
  - 2. Submit with an application a corporate surety bond, in an amount established by the Board that is consistent with industry standards, guaranteeing full and faithful performance by the applicant of the duties and obligations of a franchise holder under the provisions of this chapter; and
  - 3. Defend and indemnify the County, its officers, commissioners, employees and agents and hold them harmless for any claim in any venue, including appeals, resulting from the actions or inactions of the franchise holder regulated by this chapter; provided however, that such obligation shall not apply to the extent such claim results from actions of the County.
- C. An applicant for a franchise who is not already serving the area defined in said franchise must show to the satisfaction of the Board that he meets all of the requirements of Sections 7.04.150 through 7.04.170, and that:
  - 1. The defined service area has not been certified to another; or
  - 2. The defined service area is not presently being served by the holder of a franchise; or
  - 3. The defined service area is not being adequately served, as determined by the Board after a public hearing and comment, by the holder of a franchise, and there is a substantial demand from customers within the area for a change of service to the area.

**7.04.180 Franchise—Application review.**

Applications for franchises shall be reviewed by the County Manager which shall make such investigation as it deems necessary and appropriate. Written notice shall be given by the County to any person who holds a franchise which includes any part of the area contained in the application of another.

**7.04.190 Franchise—Investigation.**

Upon the basis of the application, evidence submitted and results of any investigation by the County Manager, the County shall make a finding on the qualifications of the applicant under Section 7.04.170, and whether additional areas should be included or additional service and equipment be provided.

**7.04.200 Franchise—Recommendation.**

On the basis of its findings, the County Manager shall recommend to the Board whether or not the application should be granted, denied, or modified, and the Board shall issue an order granting, denying or amending the application. If the order of the Board is adverse to either the applicant or the holder of a franchise, it shall not become effective until 30 days after the date of said order. The franchise holder or applicant may request a public hearing before the Board upon the Board's order by filing a written request for hearing with the Board within 30 days after the date of said order. Upon the filing of said request of hearing, the Board shall set a time and place for a public hearing upon its order, which hearing shall be not more than 30 days from the date of filing of said request for hearing. The franchise holder or applicant may submit evidence to the Board relevant to the Board's order. The Board may, following the hearing, affirm or amend its prior order.

**7.04.210 Franchise—Final order.**

Subject to the provisions of Section 7.04.410, the determination of the Board after conclusion of said public hearing shall be final. If the Board makes a final order rejecting all or part of an application for a franchise, the applicant may not submit another application for the same or a portion of the same service area for a period of six months unless the Board finds that the public interest requires reconsideration within a shorter period of time.

**7.04.212 Franchise—Term.**

The franchises shall be for an initial term of five years. On each yearly anniversary of the effective date of the franchise, the franchise term shall be automatically extended for one (1) additional year, unless either the County or the franchise holder provides written notice of its intent not to extend, at least thirty (30) days prior to such yearly anniversary.

**7.04.214 Franchise—Periodic review.**

- A. Periodic Review Schedule.
  - 1. The County Manager shall conduct the initial periodic review of all franchises in each group commencing on the dates set forth below, and shall conduct similar periodic reviews of all such franchises commencing March 15th on a schedule deemed appropriate by the County Manager.
  - 2. The periodic reviews shall be completed not later than December 31st of the year in which the review is commenced.
- B. Purpose of Periodic Review. Periodic review shall be conducted for the purpose of determining whether the franchises and the holders of such franchises are in compliance



with the provisions of this chapter and all applicable rules, regulations and laws. Each franchise holder shall demonstrate compliance with all such requirements.

- C. Information Submittals. The County Manager shall prepare a summary of information required to be submitted by each franchise holder, and may specify the forms for such submittals to assure that information necessary to determine compliance is available to the County Manager.
- D. Effect of Noncompliance. If in the course of its review of franchises, the County Manager determine that the franchise or franchise holder being reviewed is not in compliance with the provisions of this chapter or applicable rules, regulations and laws then the County Manager shall advise the franchise holder in writing of such violation in the manner set forth in Section 7.04.290 and direct that the compliance be achieved within a date certain determined by the County Manager. If the franchise holder fails to achieve compliance within the date specified, the County Manager shall report to the Board with a recommendation on whether the franchise should be suspended, modified or revoked.
- E. Suspension, Modification and Revocation. The County Manager and board may initiate proceedings for suspension, modification or revocation under Sections 7.04.290 through 7.04.310, inclusive, at any time, whether or not a periodic review is being conducted.

**7.04.270 Responsibility of franchise holder.**

- A. The holder of a franchise:
  - 1. Shall provide required service and facilities consistent with the standards established by the County in the Solid Waste and Recycling Administrative Rules;
  - 2. Shall not discontinue service to the service area or any substantial portion thereof without giving not less than 90 days' written notice of the proposed discontinuance of service to the County and to customers and receiving the approval of the County prior to discontinuing said service;
  - 3. May contract with another person to provide service within the service area after giving 30 days' written notice to and obtaining the approval of the County. The County shall approve the contract unless it finds that the quality or extent of service would be jeopardized;
  - 4. May refuse collection service to any customer as provided for within the County's Solid Waste and Recycling Administrative Rules, or for other reasons as may be established by the Board; provided, however, in no event shall the holder of any franchise terminate said service without first notifying the customer in writing of the holder's intention to terminate service not less than seven calendar days prior to the date of termination of service.

**7.04.280 Franchise—Transfer.**

A franchise holder may transfer a franchise or a portion of the service area only after written notice to and approval by the Board.

- A. The Board shall approve the transfer if it finds that the transferee meets all applicable requirements of this chapter.
- B. The Board shall approve or disapprove any application for transfer of franchise within 60 days after receipt of notice by the Board unless the Board finds that there is a substantial question of public health or safety involved and requires additional time for investigation and decision.

**7.04.290 Franchise suspension, modification or revocation—Notice.**

The County shall, upon reasonable cause, make investigations to determine if there is sufficient reason and cause to suspend, modify or revoke a franchise as provided in Section 7.04.300. If, in the opinion of the County, there is sufficient evidence to constitute a violation of this chapter or ORS Chapter 459 or the rules and regulations promulgated thereunder, the County shall notify the holder of the franchise in writing of the alleged violation and what steps must be taken to cure the violation. If the holder of the franchise is unable to or refuses to cure the violation and follow the requirements of the County set forth in said notice, the County may recommend to the Board that the service franchise be suspended, modified or revoked.

**7.04.300 Franchise suspension, modification or revocation—Findings.**

The Board may suspend, modify or revoke a franchise upon finding that the holder thereof has:

- A. Willfully violated this chapter or ORS Chapter 459 or the rules and regulations promulgated thereunder; or
- B. Materially misrepresented statements in the application for a franchise; or
- C. Willfully refused to provide adequate service in the defined service area after written notification and a reasonable opportunity to do so.

**7.04.310 Franchise suspension, modification or revocation—Compliance order.**

In lieu of immediate suspension, modification, or revocation of a franchise, the Board may order compliance and make suspension, modification or revocation contingent upon compliance with the order within a time stated in said order.

**7.04.320 Rates—Determination.**

The Board shall approve and establish existing rates filed by all applicants under Sections 7.04.150 and 7.04.160 who meet the requirements of Section 7.04.170, unless it finds that such rates are demonstrably unreasonable and are substantially higher than those charged generally in the county under similar service requirements and for the same or similar quality of service. In determining whether such rates are unreasonable under this section and Section 7.04.330, the Board shall consider the length of haul, type of waste or solid waste collected, stored, or transported, the number, type and location of customers served, or such other factors as may, in the opinion of the Board, justifiably affect the rates charged.

**7.04.330 Rates—Consideration.**

Increases or decreases in the rates approved under Section 7.04.320 shall not be made by the Board unless the Board finds that the increase or decrease is based upon an increase or decrease in the cost of doing business or an increased cost of additional, better or more comprehensive service. In determination of a proposed rate change, the Board shall give due consideration to:

- A. The investment in facilities and equipment, the services of management, local wage scales, the concentration of customers in the area served, methods of collection and transportation, the length of haul to disposal facilities, and the cost of disposal, reasonable return of the owners of the business and the future service demands of the area which must be anticipated in equipment facilities and personnel;
- B. The Board may require an investigation of any proposed rate increase or decrease. For purposes of making its investigation, the County Manager is authorized to hold public hearings and to take and receive testimony relevant to the considerations to be made by the board in allowing or denying rate increases or decreases under this chapter. Upon completion of its investigation, the County Manager shall make report of the hearing and recommendation to the board regarding the proposed rate increases or decreases;
- C. In considering rate increases or decreases, the Board must find that the rates will be just, fair, and provide a reasonable and sufficient rate of return for the franchise holder to provide proper service to the public. The Board may consider the rates charged by other persons performing the same or similar service in the same or other areas.

**7.04.340 Rates—Preferences prohibited.**

- A. No franchise holder subject to rate regulation under this chapter shall give any rate preference to any person, locality or type of waste or solid waste, collected, stored, 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 waste or solid waste collected, stored, transported or disposed of or the number, type and location of customers served, or upon other factors so long as such rates are reasonably 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 costs for a charitable, community, civic or benevolent purpose.

**7.04.342 Responsibility for payment of charges.**

The provisions of solid waste collection service to residential tenants is declared to be a benefit and service to the owners of such property, as well as the tenants. Any person who receives service shall be responsible for payment for such service. The landlord of any premises shall be responsible for payment for service provided to that premises if the tenant fails to pay for the service.

#### **7.04.344 Recycling.**

- A. All holders of franchises shall offer to provide ~~on-route~~ collection or a drop off depot ~~for~~ source separated recyclable material from all customers consistent with the service standards established within the County's Solid Waste and Recycling Administrative Rules. This service shall include, but not be limited to, each of the materials required to be collected by Oregon Administrative Rules, together with any other materials which may be designated by the Department of Environmental Quality and as agreed on between the applicant and County to cover materials that provide for a maximum diversion from landfill and are recyclable based on available end-markets.
- B. Each holder of a franchise shall provide notices to its customers that comply with all applicable requirements of the County's Solid Waste and Recycling Administrative Rules as well as all applicable Oregon Administrative Rules.

#### **7.04.350 Franchise fees—Amount.**

The Board shall collect, in the manner and at times hereinafter provided, from the holder of any franchise, an annual fee equal to five percent of the gross receipts from the area defined in said franchise.

#### **7.04.360 Franchise fees—Collection.**

The annual fee shall be computed and collected at least on a quarterly basis, the quarterly periods to consist of the periods ending March 31st, June 30th, September 30th and December 31st. The fee shall be paid by the franchise holder not later than the last day of the month immediately following the end of the quarter.

#### **7.04.370 Franchise fees—Records maintenance.**

Every franchise holder shall maintain complete and accurate records as defined within the County's Solid Waste and Recycling Administrative Rules disclosing the gross receipts for services rendered for compensation pursuant to this chapter. All applicable books and records shall be open at reasonable times and places for review by authorized personnel of the County.

#### **7.04.380 Franchise fees—Receipts misrepresentation unlawful.**

Misrepresentation of gross receipts by an applicant or franchise holder as disclosed by review, shall constitute cause for denial or revocation of franchise, pursuant to Sections 7.04.290 through 7.04.310.

#### **7.04.400 Conformity with law.**

This chapter, all amendments made thereto, and all rules and regulations adopted by the Board pursuant thereto shall be in no way a substitute for, nor in any way eliminate the necessity of conforming with all valid federal and state statutes or laws or any rules or regulations adopted pursuant thereto, nor any ordinance enacted by the County or rule or regulation adopted pursuant to such ordinance. The provisions of this shall be construed to be an addition to the requirements imposed by all such statutes, laws, ordinances, rules or regulations.

**7.04.410 Review of board action.**

All decisions of the Board under this chapter shall be reviewable by the Circuit Court of the state of Oregon for the County under the provisions of ORS 34.010—34.100 which shall be the sole and exclusive remedy for reviewing any and all actions of the Board under this chapter.

## Solid Waste and Recycling Administrative Rules

### I. Administrative Rules, Promulgation

To protect the health, safety, and welfare of the people of the County, the County has found it to be to the benefit of the public to develop administrative rules and standards for solid waste management. Pursuant to Clatsop County Code Section 7.04.050, the Board of County Commissioners may promulgate reasonable rules and regulations to the administration of solid waste.

### II. Definitions

- A. **Board** means the Clatsop County Board of Commissioners.
- B. **Business** means any commercial or nonprofit entity, such as a store, office, manufacturing and industry facility, restaurant, warehouse, school, college, university, government, hospital, and other similar entities doing business within the unincorporated County, but excludes businesses permitted in residences.
- C. **Collection Service** means a service that provides for collection of solid waste or recyclables or both, as described in ORS 459 and 459A.
- D. **Commercial** means relating to an entity that is non-residential in nature.
- E. **Compactor** means electromechanical-hydraulic equipment designed for the containment and compaction of waste into a container or tube.
- F. **Compacted Load** means any container or other receptacle whose contents have been densified by mechanical or other means with the intent to increase the weight or density of the load.
- G. **Container** means a standardized, typically covered, receptacle of one to eight cubic yard capacity, that is mechanically lifted and the contents of which are combined in the collection vehicle with material from other containers.
- H. **Customer** means any business, resident, or multi-family dwelling that receives collection service from a Hauler and includes the person that enters into an agreement with the franchisee for collection services.
- I. **Disabled Customer** means the following:
  - 1. He/she meets the eligibility criteria established by the State of Oregon, as defined in ORS 801.387 Person with a disability; and
  - 2. That no one resides in the household capable of placing the receptacles at curbside.
- J. **Drop Box** means a metal receptacle, typically uncovered and with doors, used for large volume collection and transportation of garbage, recyclable or compostable materials, primarily associated with but not limited to commercial or construction activity, with typical volume capacities of 10 to 40 cubic yards.
- K. **Enclosure** means a fenced or walled area designed to secure and hide from view solid waste and recycling containers or other receptacles, but not those open areas which are incidental to a wall, barricade, or other structure.
- L. **Franchise** means a sanitary service franchise, issued by the Board

M. **Franchisee** means a Hauler that has been issued a franchise allowing the provision of solid waste services within the unincorporated County.

N. **Glass** means bottle/jars, colored and clear mixed.

O. **Gross Receipts** means all receipts for the period from all revenue sources before any adjustments.

P. **Hauler** means a person, firm or corporation engaged in the collection, transportation and/or disposal of solid waste and recyclable material from any location within the unincorporated County and that holds a franchise issued by the County to conduct the aforementioned activity.

Q. **Landlord** means the owner, or the person who is authorized by the owner, to manage the premises or to enter into a rental agreement on behalf of the owner.

R. **Materials Recovery** and **Recovery** means any process of obtaining from solid waste, by pre-segregation or otherwise, materials that still have useful physical or chemical or biological properties after serving a specific purpose and can, therefore, be reused, recycled, or composted for the same or other purpose.

S. **Mixed Recycling** means the mixing together in one recycling receptacle all recycling material that is accepted for collection by Hauler as approved by the Department of Environmental Quality and the County. The following shall be considered as Mixed Recycling:

1. Metals: Aerosol cans, aluminum and steel tinned cans, ferrous and nonferrous scrap.
2. Paper: Magazines, newspapers, office paper (including white and colored ledger and computer), scrap paper (including envelopes, fax paper, blueprints, brochures and other miscellaneous papers), paper board, box board, and telephone directories.
3. Corrugated cardboard and Kraft paper: Boxes placed outside the receptacle should be flattened and cardboard pieces should be no larger than 36 inches by 36 inches.
4. Plastic bottles and tubs larger than six ounces, plastic buckets five gallons or less and rigid plastic nursery pots four inches or larger.

T. This list of materials may be amended by mutual agreement of the Hauler and County based on the acceptance standards of available recyclables process facilities.

T.U. **Multi-Family** means dwellings of five or more units.

U.V. **Overweight Container** means the maximum weight of a solid waste or recycling collection container's contents shall be 250 pounds per loose cubic yard or 500 pounds per cubic yard, not to exceed 8,000 total pounds for the contents and container.

V.W. **Overweight Receptacle** means any container, roll cart, or other receptacle whose total weight exceeds an identified maximum allowable weight per cubic yard of content. The maximum allowable weight shall be the following:

Size/Type	Maximum Weight Including Receptacle
Up to and Including 20 gallon cart	35 lbs
Over 20 gallons, up to and including 32 gallon	60 lbs

Hauler provided roll carts of 32-35 gallons	75 lbs
Hauler provided roll carts of 60-65 gallons	100 lbs.
Hauler provided roll carts of 90-96 gallons	145 lbs.
Kraft Paper Bag	40 lbs
Bundle	40 lbs
Extra Bag or Bundle of Garbage	25 lbs

~~W-X.~~ **Owner** means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises. This includes a mortgagee in possession.

~~X-Y.~~ **Rate(s)** means the Board--approved customer charges for each specific service as provided in the current approved rate sheets.

~~Y-Z.~~ **Receptacle** means any bin, box, container, roll cart, tub, or other object designed for receiving, holding, or storing material.

~~Z-AA.~~ **Recyclable Material** means any material or group of materials that has or retains useful physical or chemical properties after serving its original purpose(s) or function(s), that is separated from solid waste by the generator or at a material recovery facility.

~~AA-BB.~~ **Recycling** means any process by which solid waste materials are transformed into new products in a manner that the original products may lose their identity.

~~BB-CC.~~ **Regular Service** means a pre-determined scheduled collection service that occurs at recurring intervals.

~~DD.~~ **Residential** means single-family dwellings and dwellings having four or less units located within City limits or its Urban Growth Boundary.

~~EE.~~ **Rural Residential** means designated areas consisting of dwellings located in unincorporated Clatsop County that have low residential density that does not allow for economically feasible collection of Solid Waste and recycling. These areas will be designated by the County.

~~GG.~~

~~DD-FF.~~ **Reuse** means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

~~EE-GG.~~ **Roadside** means located within five feet of where the U.S. Postal Service provides service.

~~FF-HH.~~ **Roll Cart** means a plastic, covered receptacle with an incorporated handle and wheels, used for receiving and holding solid waste, recyclables, or compostables with a normal capacity range between 20 and 96 gallons.

~~GG-II.~~ **Service Area** means the unincorporated portion(s) of Clatsop County in which a Hauler is permitted to operate.

~~HH-JJ.~~ **Solid Waste** means all useless or discarded putrescible and nonputrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings



or other sludge; useless or discarded commercial, industrial, demolition and construction wastes, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances; manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined in ORS 459.386; but does not include:

1. Hazardous waste as defined in ORS 466.005;
2. Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of animals.

~~II~~~~KK~~. **Source Separated** means that the person who last used the recyclable or compostable material separated the recyclable or compostable material from solid waste.

~~LL~~. **Suburban Rural** means designated area consisting of dwellings located in unincorporated Clatsop County that have relatively high residential density that allows for economically feasible collection of Solid Waste and Recycling. These areas will be designated by the County.

~~JJ~~~~MM~~. **Unit** means an individual occupied dwelling space that exists within a multi-family dwelling.

~~KK~~~~NN~~. **Waste Reduction** means the term used to encompass all practices that either prevent the generation of waste or divert it from landfill disposal including waste prevention, reuse, and recovery.

~~LL~~~~OO~~. **Yard Debris** means solid waste consisting of grass clippings, leaves, hedge trimmings and similar vegetative material generated from residential property or landscaping activities, but does not include stumps or similar bulky wood materials or food.

### III. Insurance and Indemnification

A. The Hauler shall carry insurance coverage and limits as described in this section. All insurance carried by the Hauler must be primary and non-contributory with any insurance, including any self-insurance or retention carried by the County. A waiver of subrogation in favor of the County shall be required on General Liability, Workers' Compensation and Automobile Liability coverage. The waiver of subrogation endorsement shall be attached to the certificate of insurance.

B. The Hauler shall provide and maintain workers' compensation coverage for its employees, officers, agents or partners as required by applicable workers' compensation laws including employers' liability with limits not less than \$500,000/ \$500,000/ \$500,000.

C. The Hauler shall at all times carry Commercial General Liability insurance coverage which shall include, but not be limited to, coverage for premises liability and work performed by independent and subcontractors. The minimum limits shall be:

- \$2,000,000 Policy Aggregate
- \$2,000,000 Products and Completed Operations Aggregate

\$1,000,000 Each Occurrence

\$1,000,000 Personal and Advertising Injury

D. The Hauler shall at all times carry Automobile Liability insurance in the amount of \$1,000,000 combined single limit per accident for Bodily Injury and Property Damage, for Haulers' vehicles, whether owned, hired, or non-owned, used in connection with franchised work, which includes coverage for the County, its agents, officers, elected officials and employees. The Hauler shall at all times carry an Automobile Pollution Liability endorsement in the minimum amount of \$1,000,000.

E. The Hauler shall name as additional insureds the County, its agents, officers, elected officials and employees. The Hauler's General Liability and Auto Liability policies must be endorsed to show this additional coverage. The additional insured endorsement must be attached to the certificate of insurance.

F. The Hauler shall submit to the County Manager a current certificate of insurance evidencing all policies required by these rules.

G. All insurance carriers shall have an AM Best rating of A- VII or better.

H. In the event that the Hauler does not obtain, renew, or maintain the required insurance and furnish evidence thereof, County may either procure the required coverages at the Haulers expense or exercise any remedies provided under these rules or Clatsop County Code Chapter 7.04.

I. The Hauler shall notify the County Manager within five business days of the effective date of any substantive change to any insurance policy or endorsement required by these rules. Examples include, but are not limited to, changes in insurance carrier, policy limits, and or changes in coverage.

J. The Hauler shall be responsible to pay any amounts within the deductible or retention amount without contribution from the County.

K. Hauler will request all subcontractors performing work in connection with this Agreement to maintain the following minimum insurance: Workers' Compensation in accordance with applicable law or regulation, Employer's Liability with limits of \$500,000, Commercial General Liability with limits of \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate, and Automobile Liability insurance with a combined single limit of \$1,000,000.

#### **IV. Reporting, General**

##### **A. *Recycling and Solid Waste Disposal Report***

1. The Hauler shall collect data or estimate the data relative to disposal and recycling and submit reports to the County Manager's designee. If the data is estimated, Hauler disclose the estimation methods. Haulers shall submit reports electronically.

2. Data shall be collected and reported using methods prescribed by the County and submitted in full on forms provided by the County.

3. Only data that is considered complete and acceptable by the County will be used by the County to develop or modify services, and for rate setting purposes.

4. Reports shall be submitted to the County quarterly and are due no later than April 30th, July 31st, October 31st, and January 31st. Submitted reports shall include data for each month prior to the due date.

**B. *Quarterly Gross Receipts Statement***

1. The Hauler shall file with the County a gross receipts statement for services rendered for compensation for the quarterly periods ending March 31st, June 30th, September 30th, and December 31st of each year. Statements shall be filed on forms provided by the County.

2. Data shall be collected and reported using methods prescribed by the County.

3. Statements shall be submitted to the County quarterly and are due no later than April 30th, July 31st, October 31st, and January 31st. Submitted statements shall include data for each month prior to the due date.

**C. *Annual Report***

1. The Hauler shall file an end-of-the-year summary of financial and operational activity on forms provided by the County. Haulers shall submit reports electronically.

2. Data shall be collected and reported using methods prescribed by the County.

3. Only data considered complete and acceptable shall be submitted. This data may be used by the County to develop or modify services and for rate setting purposes.

4. Data shall be submitted to the County no later than April 15 of the succeeding year being reported. If April 1 falls on a Saturday or Sunday, the annual report shall be due on the following Monday.

5. A Hauler selling, canceling, transferring, or in some other manner discontinuing operations must submit an annual report for that portion of the year in which the company operated.

6. The County shall provide Haulers with written confirmation of the receipt of all required reports.

D. *Other Reports.* The County may require the Hauler to file periodic or special reports, or request other information, at its discretion.

**V. *Education and Promotion, General***

A. The Hauler shall actively advocate waste recovery to its customers, advocating a waste diversion goal equal to or greater than specified in ORS 459A.010, Statewide Goals.

B. The Hauler is responsible for notifying and educating its customers on waste reduction activities. Haulers shall use and distribute educational and other materials provided by the County without alteration except for the addition of

Hauler contact information. Haulers may also use their own materials in addition to County materials. The Hauler shall submit all educational and promotional materials it produces to the designated county staff prior to distribution.

## VI. Service Standards

A. *Purpose.* To establish minimum service requirements for solid waste and recycling material collection. Service standards are designed to provide efficient solid waste service and increase the customer's access to the benefits of recycling and other waste reduction activities, thereby reducing costs to the ratepayer, ensuring a fair return to the Hauler, and creating a generally positive impact on the environment in terms of reduced waste, conserved resources, reduced pollution, and decreased energy consumption.

### B. *Consistent Service Requirement*

#### 1. Collection Service and Rates.

The Hauler shall:

- a) Provide all services for which it has a franchise and for which a rate, including a specified receptacle size, has been established by the County. If the Hauler cannot provide a customer requested-sized receptacle (and that requested size is listed in the County established rate sheets), the Hauler must provide alternate sized receptacles sufficient to meet the capacity originally requested by the customer, at a reasonable discounted rate from the rate applicable to the container they are actually receiving.
- b) For regular services, **shall not** charge any rate or fee other than the rates or fees approved by the Board. However, nothing is to prevent a Hauler from making allowances or providing services at a reduced cost for a charitable, community, or benevolent purpose or event. The Hauler shall report to the County, on an annual basis, whenever it deviates from established rates for the aforementioned purposes.
- c) Not extend preferential treatment to any customer or group of customers.
- d) Make available any service or option specified in the Board-approved rate sheets to all customers.
- e) Determine solid waste and recycling material collection days.
- f) Be responsible for transport and delivery of source-separated recyclable material to a processor or broker of recyclable material or to an end-use market. The Hauler shall not deliver or cause to be delivered any source separated collected recyclable material for disposal except by prior County approval.

Notwithstanding the foregoing, this shall not limit the Hauler's ability

to refuse to collect contaminated recyclables or collect contaminated containers as trash as set forth in Section VI. B.2.  
g) Comply with ORS 459A and OAR 340 and the provisions regarding delivery of collected recyclables.

2. Missed Collection

The Hauler shall:

- a) Collect all properly prepared solid waste and recyclable material placed out for collection on the customer's regularly scheduled collection day. If materials placed out for collection are not in the proper location, are inaccessible, or are contaminated, or if the receptacles are overweight or in excess of the level of service agreed to by the customer, the Hauler may decline to collect them or, in the case of contaminated Mixed Recycling containers, the Hauler may elect to collect the container as Solid Waste. The Hauler must provide the customer a County-approved notice setting forth the reasons for non-collection and list the Hauler's name and phone number. The Hauler may choose to provide the notice by email or telephone.
- b) Notify the customer if the Hauler intends to change a scheduled collection day because of an Oregon state legal holiday, at least 14 days prior to the holiday. Regularly scheduled collection services are generally provided on all holidays except Thanksgiving, Christmas, and New Year's Day. If a Hauler misses a scheduled collection day due to a holiday, the Hauler generally shall provide services the next day.
- c) Not be held responsible for missed collection due to temporary access restrictions imposed by local authority, adverse weather, or natural disaster, but shall make every effort to provide service as soon as possible thereafter as follows:
  - (1) On any day when collection services are interrupted, the Hauler shall notify the County via phone message or e-mail as soon possible of the extent that collection schedules have been or are being changed.
  - (2) If the Hauler misses a scheduled collection day due to adverse weather or other hazardous conditions, the Hauler shall provide services the next day or the next regularly scheduled collection day.
  - (3) If adverse weather or other hazardous conditions persist for more than one day, all collection services for customers may be deferred until the next following week on their regularly scheduled collection day. Hauler may authorize the priority of collection for garbage, or recycling materials based on the hazardous conditions.
  - (4) There will be no billing credit applied for missed collection service due to adverse weather or other

hazardous conditions. Instead there will be no additional charge for extra material set out on the next regularly scheduled collection day if the total volume of material set out is no greater than twice the level of the customer's current subscribed level of service. If the adverse weather or other hazardous conditions continue for more than one collection pickup, the customer may set out extra material equal to the total volume of collection service missed. Only properly prepared materials shall be collected.

(5) The Hauler shall provide customer notification of any revisions to the regularly scheduled pick-up schedule via the Hauler website, and through at least one of the following methods - recorded message, email or by other means.

d) The Hauler shall respond promptly to reports of missed collections. In order to receive a remedy for a missed collection, the customer must notify the Hauler no later than the end of the second business day after the date of the missed collection. Customers will not receive a bill credit for missed collections. Instead, the following remedies will be provided:

(1) If the missed collection is caused by the Hauler, the customer may set out the material on the next collection day. There will be no extra charge for missed pick-ups caused by the Hauler.

(2) If the missed collection is caused by the customer, the Hauler and Customer may arrange a special pickup for cost.

(3) For residential collection only: if the missed collection is caused by the customer setting out the receptacle late, improperly preparing material or improperly positioning the receptacle (i.e. too close to objects or car blocking the receptacle) the customer may notify the Hauler that the material will be set out on the next regular collection day. There will be no additional charge for material set out on the next collection day if the total volume set out, including the missed collection, is no greater than twice the customer's current subscribed level of service. Only properly prepared materials shall be collected.

(4) For commercial collection only: if the missed collection is caused by blocked access to the receptacle or improperly preparing material, the customer may correct the problem and request a special pick-up charged at the call-back rate specified in the Board-approved rate sheets.

(5) Each customer caused missed collection must be documented by the Hauler through a verifiable means such as the maintenance of a set-out log book, computer records, or route photos.

3. Collection and Storage.

The Hauler shall:

- a) Immediately pick up any solid waste and recyclable material spilled by the Hauler.
- b) Store and collect solid waste, recycling, and hazardous wastes so as to not create vector production and sustenance, conditions for transmission of disease to human or animals, fire hazards or hazards to service or disposal workers or to the public.
- c) Load and operate collection vehicles so as to prevent dropping, leaking, blowing, sifting or escaping of solid waste, recyclable material from the vehicle on the public highway.
- d) Operate collection vehicles that are sufficiently watertight to prevent the loss of any liquid wastes from the vehicle.
- e) Ensure that the collection vehicle is attended or securely closed except when collecting solid waste, or recyclable material.

C. *Customer Service - New Accounts, Service Level Changes, Termination*

1. The Hauler, when establishing or changing collection service, may only request the following personally identifiable information from customers:

- Name (first and last)
- Service address
- Billing address (if different than the service address)
- Service address rented or owned
- Landlord name and phone number (if rented)
- Phone number
- Mobile phone number
- Email address
- Financial information needed to establish online billing or payment

2. The Hauler may collect additional personally identifiable information as needed to investigate and act against fraudulent activities that may result in theft of service.

3. The Hauler must, as required by state and federal law, enact and follow security procedures to protect and prevent personally identifiable information from disclosure.

4. The Hauler shall respond to requests for new service within one business day.

5. The Hauler shall commence the requested level of service on the next regularly scheduled collection day, or no later than five business days after the day that the request was made, unless otherwise requested by the customer. If unable to provide the service, the Hauler must notify the County.

6. The Hauler shall provide upon request each new customer with information that includes a description of services and rates, recycling guidelines and resources, recycling options, and Hauler contact

information, including but not limited to business address, telephone number, business hours, and e-mail address.

7. The Hauler shall not change collection routes or service days for more than 100 customers, without giving at least 14 calendar day notice to the impacted customers and County.

8. Customers shall make available all receptacles for retrieval by Haulers when terminating service. Haulers shall retrieve said receptacles within seven days following the last scheduled day of service.

9. After service has been terminated, if a customer fails to make their receptacles available for retrieval by the Hauler, the Hauler may charge a fee to customers for their unreturned receptacles, as specified in the Board-approved rate sheets.

10. The Hauler must follow the following procedure in order to charge said fee:

a) The Hauler shall notify all customers in writing of the requirement for the customer to make available all receptacles for retrieval and of the possibility of incurring a fee should they fail to make their receptacle available. Said notice may be included as part of the customer's regular bill, or as part of the new customer information packet, or in any other comparable means.

b) The Hauler shall allow a grace period for the customer to return the receptacle prior to the next regularly scheduled pick-up date without charge.

c) After the expiration of the grace period, the Hauler may send a bill to the customer noting the fee for the unreturned receptacle as a separate line item on the bill.

D. *Customer Service – Office Procedures.*

The Hauler shall:

1. Notify the County in writing of any change in physical business address, business mailing address, business phone number, business hours, or business name. This notice must be filed by letter, fax, or e-mail at least 10 business days before the effective date of the change.

Provide the County with its current primary and secondary contact names, phone numbers, and e-mail addresses. This shall include a current telephone number where it can be reached outside its established office hours in the event of an emergency.

2. Have voice mail, an answering machine, or answering service to receive calls when company personnel are unavailable.

3. Ensure persons with Limited English Proficiency are provided meaningful access to collection services.

4. Have available the County's Solid Waste & Recycling Administrative Rules, and the Board-approved current rate sheets.

5. Maintain a system to receive, compile, and respond to service complaints including, but not limited to, missed collection, billing disputes, or service discontinuation. All service complaint calls must be recorded



noting date, address, a summary of the complaint, and a description of the method of resolution.

6. Not use foul or abusive language when dealing with the public.
7. Respond to customer or County calls (including Code Enforcement requests), e-mails, or complaints within five business days.
8. Make all individual account information available to County personnel upon request.

E. *Customer Service – Billing (Regular Service Only)*

1. The Hauler shall bill customers for regular service either once per month or once every two months.
2. Customer payments shall not be due more than 31 days before the end of the service period being billed, nor less than 14 days after the date of the postmark on the billing.
3. If a customer initiates or terminates regular service within a calendar month, monthly rates and charges shall be prorated based upon the number of pick-ups actually provided in that month.
4. The billing statement shall contain the following:
  - a) Account information including the service address, the billing period, and the customer's level of service and billing rate consistent with the Board-approved rate sheets.
  - b) An itemization of any additional charges or credits incurred during the billing period including, but not limited to, prorated charges, extras, distance charges, overcapacity charges, call-back fees, non-sufficient check charges, or vacation credits. Additional charges or credits shall be stated on the billing statement consistent with the Board-approved rate sheets.
  - c) The total amount due, the date payment is due, and any amount brought forward.
  - d) The Hauler name, address, email address, website information, and phone number.
5. The Hauler shall provide within five business days of a request by the customer or the County, the customer's billing records or statements of account containing an itemized and dated listing of any disputed charges.

F. *Customer Service – Refunds and Credits*

1. The Hauler shall either pay a refund due to a customer within 30 calendar days of the Hauler being informed or discovering that a refund is required or provide a credit on the customer's next bill. For a refund equal to \$50 or greater, the customer shall determine the preferred refund option.
2. Refunds or credits from overcharges shall be equal to the amount overcharged.
3. Vacation Credit-Residential Collection Service Only:

- a) A vacation credit shall be given to customers who stop collection service for a period of two consecutive weeks or longer, not to exceed four weeks.
- b) A collection service stop of four weeks or less shall be considered a vacation credit.
- c) Only two vacation credits shall be issued to any service account within a single calendar year period.
- d) The request for a vacation credit must be made at least 48 hours in advance of the first pickup that is scheduled during the vacation period.
- e) A vacation credit shall be determined by dividing the monthly collection rate by 4.33 and then multiplying that number by the number of weeks of temporary service discontinuation being requested.

G. *Receptacles*

- 1. The Hauler shall be responsible for furnishing, delivering, maintaining, and replacing all solid waste ~~and recycling~~ ~~and compostable material~~ receptacles. Replacement of lost, damaged, or stolen receptacles provided by the Hauler shall be the responsibility of the Hauler.
- 2. Repair or replacement of damaged roll carts or bins provided by the Hauler shall be the responsibility of the Hauler for normal wear and tear.
- 3. Repair or replacement of damaged containers or drop boxes shall be the responsibility of the customer when the damage has been shown to be caused by the customer.
- 4. Prior providing drop box service, the Hauler shall provide notice to the customer that damage to drop boxes caused by the customer may be the responsibility of the customer.
- 5. The Hauler shall deliver all receptacles in serviceable condition.
- 6. All solid waste material containers, roll carts, and all other receptacles whether provided by the customer or Hauler, shall be leak proof and have lids or covers to prevent material from blowing, leaking, or falling out, and to protect the materials from vector populations and the elements.
- 7. The Hauler shall not charge a deposit for receptacles or a fee to collect unused receptacles.
- 8. Only the franchised Hauler shall provide containers that it mechanically collects. However, a customer may provide a drop box/compactor, so long as the drop box/compactor is compatible with the Hauler's equipment.
- 9. Customers shall not use any material to constrain the lids on any receptacle and Hauler shall not be required to collect any containers that pose a risk to the driver or Hauler employee.
- 10. No receptacle shall be placed by the customer in a location or manner that creates a hazardous or unsafe condition for the Hauler.

Commented [MS1]: I thought we weren't doing compost?

11. No receptacle shall be an Overweight Receptacle.
12. Container and Drop Box/Compactor Location:
  - a) The Hauler shall not be required to place a container or drop box/compactor in an enclosure unless there is clear and unobstructed vehicle access to the enclosure, any gate or door on the enclosure is openable during the time of service, the gate or door is able to be secured in the open position, and the usable enclosure opening is at least 10 feet wide.
  - b) The Hauler shall not:
    - (1) place a container or drop box/compactor in an area that has less than 25 feet of vertical clearance,
    - (2) place a container or drop box/compactor so as to obstruct traffic or designated pedestrian walkways,
    - (3) place a container or drop box/compactor with wheels on an incline unless the wheels are lockable and able to be positioned in a direction opposite the incline,
    - (4) place a container or drop box/compactor on, over, or behind a curb or any other obstruction that prevents ease of movement without consent of the customer, or
    - (5) place a container or drop box/compactor so as to obstruct or block drainage, fire hydrants, or emergency access/egress to a structure.
  - c) The Hauler shall not be required to service any container or drop box/compactor that has been significantly moved from the original location agreed upon at the time of initial service.

H. *Labeling*

1. All containers and roll carts shall be clearly labeled, using consistent and standardized words and/or graphics approved by the County.
2. Haulers shall use graphic decal or label materials approved by the County for all new receptacles put into service.
3. Labels on all containers and roll carts must be updated to reflect the current use of the receptacle.

I. *Residential Service Standards, Specific*

1. *All Residential and Suburban Rural Collection Customers:*
  - a) The Hauler shall offer to provide weekly solid waste collection service to all customers. Hauler may offer to provide biweekly, on call or monthly solid waste collection service.
  - b) Residential collection shall begin no earlier than 6:00 a.m. and shall be completed by 7:00 p.m. The County must be notified in advance of collection made after 7:00 p.m. on a particular day.
  - c) The customer shall set out the receptacle prior to 6:00 a.m. on the collection day.

- d) The Hauler shall deliver clean, and in working order, ~~recycling bins recycling bins and roll~~ and roll carts to customers.
- e) The Hauler shall only be required to collect the contents of any roll cart if it is set out without impediment to the automated collection process and to prevent damage to property during collection.
- f) The Hauler shall be required to collect the contents of any receptacle, bag, or bundle unless the receptacle is an Overweight Receptacle.
- g) The customer will not receive a reduced rate if recycling collection service is declined.
- h) ~~The The~~ Hauler shall pick up Mixed Recycling ~~(not including glass)~~ set out for collection, as long as the materials are prepared according to County guidelines and education materials.
- i) Customers will not be charged for recyclable material that does not fit in receptacles (the receptacles are full) as long as it is properly prepared and set out on the scheduled pick up day. A customer may request one additional roll cart for purposes of setting out additional recyclable material. However, if a customer requests more than one additional roll cart(s) the Hauler shall charge a fee for the additional roll cart(s), as specified in the Board-approved rate sheets.
- j) Distance Charges
  - (1) Haulers shall provide non-roadside, residential collection service for each applicable collection service component (solid waste and recycling) upon request by the customer.
  - (2) Haulers shall charge a distance fee when receptacles are placed for collection more than five feet from the curbside.
  - (3) Haulers shall charge a single distance fee monthly for regular residential collection service (solid waste and recycling).
  - (4) Distance charges shall be assessed at a flat rate, as specified in the Board-approved rate sheets.
  - (5) Haulers shall provide non-curbside, residential collection service for each applicable collection service component (solid waste and recycling) at no extra charge to Disabled Customers. Haulers may require evidence of disability, including but not limited to a physician or social worker stating the disability, or a disabled parking permit issued from the Oregon Department of Motor Vehicles.

Commented [MS2]:

2. Rural Residential Collection Customers Only:

- a) The Hauler shall offer to provide to rural customers ~~(including will-call and recycling-only customers)~~ either every-other-week recycling collection service or reasonably close access to a recycling drop off depot.
- b) ~~This service~~ self offered, every-other week recycling collection service shall include one clearly labeled at least 64-gallon recycling roll cart for the collection of mixed recycling. Each roll cart shall be identified with a mixed recycling imprint prior to the distribution to the customer.
- b)c) Recycling depots will accept all recycling materials that are collected during curbside recycling service.
- e)d) The Hauler shall collect mixed recycling on the same day of the week that solid waste is collected.

**Commented [MS3]:** I believe Dan said that for Recology this would be a 90 gallon cart, I don't recall if WM said a specific size.

J. *Multi-Family Dwelling Service Standards, Specific*

- 1. Consistent Service Requirement
  - a) Solid waste and recycling collection receptacles shall be serviced at least weekly and at reasonable intervals so as not to create a nuisance. When service is provided by drop box or compactor or for on-call collection, it shall be provided at regular intervals so as not to create a nuisance.
  - b) Multi-family dwelling collection shall begin no earlier than 6:00 a.m. and shall be completed by 7:00 p.m. The County must be notified in advance of collection made after 7:00 p.m. on a particular day.
- 2. Overweight and Overloaded Containers
  - a) An Overweight Container shall be charged at the compacted load rate as indicated in the current Board-approved rate sheets.
    - (1) To determine the container overweight charge, divide the normal monthly charge by 4.33; divide the result by the number of weekly pickups; then multiply that number by the current compacted rate.
    - (2) Additional charges such as unscheduled service fees and call-back fees may be charged.
  - b) Prior to assessing an overweight charge, or refusing to pick up an otherwise unsafe receptacle, the Hauler shall notify the customer of the overweight and/or unsafe condition. The customer shall then be given a reasonable opportunity to remedy the overweight and/or unsafe condition.
  - c) No Hauler shall be required to pick up an overweight solid waste or recycling collection receptacle.
  - d) A receptacle shall be considered overloaded or unsafe if the receptacle is so filled as to allow material to fall out, has large items

extending from the receptacle, or is so improperly loaded as to potentially cause damage to equipment or harm people.

3. Mixed Recycling
  - a) The Hauler shall offer to provide Mixed Recycling to all multi-family dwelling accounts as part of regular solid waste collection service.
  - b) The Hauler shall pick up Mixed Recycling set out for collection.

K. *Business Service Standards, Specific*

1. Consistent Service Requirement
  - a) Solid waste and recycling material collection receptacles shall be serviced at regular intervals so as not to create a nuisance.
  - b) The Hauler shall offer to provide every other week mixed recycling service to all commercial accounts as part of regular solid waste service.
  - c) The Hauler shall offer to provide every other week mixed recycling receptacles to all commercial accounts at no extra charge as part of regular solid waste service. The requirements of this section do not apply when service is provided by drop box or compactor.
  - d) The Hauler shall provide a single container for solid waste unless one of the following applies:
    - (1) The service volume exceeds the largest container size for which a rate has been established.
    - (2) The customer, after being informed of options and costs, requests containers of lesser volume and pays for the additional container at the additional container rate. The Hauler must document the request in its service records.
    - (3) The Hauler has a lack of equipment, by choice or shortfall, wherein the Hauler must provide an equitable level of service with equipment on hand, but may charge only the single container rate for the level of service requested.
    - (4) It is unsafe (due to weight, distance to collection vehicle or other circumstances) to collect the solid waste in a single container.
2. Overweight and Overloaded Containers
  - a) An Overweight Container shall be charged at the compacted load rate as indicated in the current Board-approved rate sheets.
    - (1) To determine the container overweight charge, divide the normal monthly charge by 4.33; divide the result by the number of weekly pickups; then multiply that number by the current compacted rate.

- (2) Additional charges such as unscheduled service fees and call-back fees may be charged.
- b) Prior to assessing an overweight charge, or refusing to pick up an otherwise unsafe receptacle, the Hauler shall notify the customer of the overweight and/or unsafe condition. The customer shall then be given a reasonable opportunity to remedy the overweight and/or unsafe condition.
- c) No Hauler shall be required to pick up an overweight solid waste or recycling collection receptacle.
- d) A receptacle shall be considered overloaded or unsafe if the receptacle is so filled as to allow material to fall out, has large items extending from the receptacle, or is so improperly loaded as to potentially cause damage to equipment or harm people.

L. *Drop Box/Compactor Services*

- 1. *Service Standards, Specific*
  - a) Solid waste and recycling collection receptacles shall be serviced at regular intervals so as not to create a nuisance.
  - b) For non-regularly scheduled drop box or compactor collection service, including delivery or haul, the Hauler shall provide service no later than five business days after the time the request was made, provided that the customer requests the service no later than 2 p.m., unless the customer requests a later date or time.
- 2. *Drop Box/Compactor Collection Service and Rates*
  - a) At the time of the initial request for drop box/compactor collection service, the Hauler shall disclose to the customer, if applicable, whether a notice to a right to lien will be sent to the owner of the property.
  - b) The Hauler may require that a customer pays service fees in advance.
    - (1) Pre-payments shall be in an amount not exceeding the anticipated total due including, but not limited to, the delivery of the drop box, plus the haul fee and disposal fee.
    - (2) If a pre-payment prior to collection service is required, the Hauler must provide the details of the anticipated charges for service including disposal location and timeline for refunds or customer payments, if applicable. The bill for prepayment shall be in writing only if requested by the customer at the time of the service order.
    - (3) The Hauler shall honor all requests for refunds of the unused portion of pre-payments within 30 days of final invoice.

c) The Hauler shall charge its drop box customers disposal fees equal to the actual disposal cost to the company plus the approved percentage mark-up for such service included in the rates submitted by Hauler and approved by Board.

d) The Hauler shall charge demurrage rental fees after two calendar days following the date of delivery; not counting the date of exchange or pickup. For example, if a drop box is delivered on Monday it must be picked up or exchanged no later than Thursday or demurrage fees would begin to be assessed on Friday.

3. Drop Box/Compactor Collection Service – Billing

a) The Hauler may choose to bill drop box/compactor collection service customers on a monthly or more frequent basis.

b) If an invoice or billing statement is rendered for the drop box/compactor collection service or for the balance owed after a prepayment has been made, payment may be stated as due upon receipt. Interest may not accrue and procedures to collect the amount owed may not be initiated for at least 14 days from the date of the billing statement or invoice.

c) The invoice or billing statement shall contain the following:  
(1) Account information including the service address and the customer's level of service and billing rate.  
(2) An itemization of charges or credits incurred including, but not limited to, receptacle size, haul fee, delivery fee, disposal fee. Billed amounts or credits shall be stated on the billing statement using terms consistent with the Board-approved rate sheets.

d) The Hauler shall dispose of drop box/compactor contents at specific legally authorized disposal sites, facilities or locations if requested by the customer, provided that such location is a DEQ approved site.

M. Drop Sites – Glass and Yard Debris

Hauler shall maintain the Hauler's current locations for no additional cost glass and yard debris drop offs for customers. If Hauler is unable to provide no cost glass and yard debris drop offs within 20 miles of its customers, Hauler and County will work collaboratively to provide such drop sites.

**VII. Denial, Termination of Service**

A. The Hauler may terminate or deny service to any customer for failing to pay for service received or to pay in a timely manner. The Hauler must provide seven days written advance notice to the County and the customer prior to termination of service.



- B. The Hauler may not terminate a billed customer's service for other reasons, including but not limited to, non-payment of a prior tenant or owner's billed service or non-payment of another billed customer's service.
- C. The Hauler may not terminate collection service while the billed customer is pursuing a dispute. If the customer pays all undisputed amounts when due and corrects any conditions posing a danger to health, safety or property, a Hauler may not terminate collection service while:
  - 1. The customer is attempting to resolve a billing dispute with the Hauler's representatives; or
  - 2. The customer is attempting to resolve a billing dispute with County staff.
- D. Billing disputes shall be resolved as follows:
  - 1. The Hauler shall investigate a billing dispute within 30 days of notification of the disputed charge(s).
  - 2. The Hauler shall report the results, in writing, of any dispute investigation to the customer through email or other document no later than 90 days after notification of the dispute.
  - 3. The Hauler shall report the results of all dispute investigations to the County if the investigation(s) results in termination of collection service to the customer.
  - 4. The County may grant an extension of time if requested by the Hauler or customer.
  - 5. Billing disputes shall be considered resolved upon receipt by the customer of the results of the investigation and final action taken.
  - 6. Prior to terminating service, the Hauler shall give the customer seven days written notice of pending denial or termination and provide the customer with an opportunity to remedy.

### **VIII. Rate Adjustment Methodology**

- A. In consideration for its services hereunder, franchisee shall be allowed to charge and collect those rates adopted each year in accordance with this section.
- B. The rates set shall be fixed at a level sufficient to produce a revenue requirement for franchisee that is equal to the quotient of allowable expenses divided by the operating ratio (expressed as a decimal). For purposes of this section the rates shall include all moneys collected by franchisee for the services provided under this franchise, including, but not limited to, charges for collection of solid waste and recyclable materials, revenue from the sale of recycled material, disposal charges, surcharges, fees and taxes. Revenue shall also include any other moneys received by franchisee from any other entity as compensation for the services provided hereunder, allocated fairly and reasonably to the jurisdiction and customers receiving such services. For purposes of this section, expenses shall be allowable to the extent they are known and measurable, calculated in accordance with generally accepted accounting principles (GAAP), do not exceed the fair market value of like

services, and are reasonably and prudently incurred by the franchisee in the course of performing its obligations under this franchise. Allowable expenses shall include but not be limited to the following:

1. The costs of complying with all laws, regulations or orders applicable to the obligations of franchisee hereunder, as now or hereafter amended;
2. Disposal fees.
3. Labor costs, including supervisory labor, associated with provision of services under the franchise, including workers' compensation and benefits and third-party transportation costs;
4. Vehicle and equipment expenses including depreciation, vehicle registration fees, motor fuel, oil, tires and repairs and maintenance of equipment;
5. All expenses of maintaining and replacing capital equipment and assets, including depreciation and repair and maintenance;
6. All expenses of maintaining and replacing capital equipment and assets, including depreciation and repair and maintenance;
7. Performance bonds and insurance, at a minimum, in the amounts and coverage required by the city;
8. Administrative costs including officer salaries, administrative staff, data processing, billing and supplies;
9. Utilities;
10. Training and worker safety;
11. Marketing, promotion and public education costs;
12. Property or facility depreciation, rental or lease costs necessary to the provision of services required by the Clatsop County Code, these Administrative Rules, or any other directive issued by the Board of County Commissioners or County staff;
13. Professional fees and costs;
14. Debt service expenses other than any debt service expenses associated with purchases of routes or business purchases;
15. Franchise fees of five percent (5%) of gross revenues established by County. Franchise fees more than five percent (5%) of gross revenues shall be allowable expenses with no application of the operating ratio;
16. Any expense incurred in the collection, handling, processing, storing, transporting, marketing, or sale or other disposition of recyclable materials, as defined in ORS 459.005(20);
17. All surcharges, taxes or fees, other than state or federal income taxes or franchise fees, which are imposed upon franchisee or levied by federal, state or local governments in connection with franchisee's provision of solid waste collection, transportation, disposal and resource recovery services;
18. Any other expense determined in advance by County and franchisee to be reasonable and necessary to the provision of the services required under the Clatsop County Code, these Administrative Rules, or

any other directive issued by the Board of County Commissioners or County staff.

C. Under no circumstances will the following expenses be counted as allowable expenses:

1. Political and charitable contributions;
2. Federal, state and local income taxes;
3. Loss on sale of assets;
4. Officers' life insurance premiums;
5. Director fees;
6. Interest on the purchase of equipment or facilities to the extent that the purchase price exceeds the fair market value of the asset at the time of purchase;
7. Penalties and fines;
8. Salaries paid to corporate officers or shareholders holding more than ten percent (10%) of the total outstanding stock of the company.

D. For purposes of this section, operating ratio shall be between 88% to 92%, with a goal of 90%.

E. The franchisee and its affiliates may use common resources (equipment, fuel, labor, etc.) to service County and other nearby jurisdictions. In such cases, it will be necessary to allocate the costs of such resources among the jurisdictions they serve. The County will use a reasonable methodology, developed with input by a third-party auditor and the Hauler's input to allocate the common resources to serve the County. Where the franchisee shares management and general and administrative resources with its affiliates, in lieu of the allocation method, the franchisee and County agree that the charges for such services shall be determined as a percentage of gross revenues which may be adjusted by mutual agreement between County and the franchisee. Charges for these services shall be equal to or less than eighty percent (80%) of the cost of procuring such services from third-party service providers.

F. Except as provided in subsection (G) of this section, a cost of living rate adjustment shall be made annually according to the following procedures:

1. Commencing on June 1st, 2023, and on June of each year thereafter (the adjustment date) throughout the term of the franchise, the rates shall be adjusted in a percentage amount equal to the percent change in the Consumer Price Index for All Urban Consumers (CPI-U) for Water, Sewer, Trash Collection, December 1997=100, or its successor index, published by the Bureau of Labor Statistics (the index) that occurred between the twelve (12) month period ending in April of the previous year and the twelve (12) month period ending in April of the current year; provided however, that the adjustment shall not exceed four percent (4%) in any year. The adjusted rates shall become effective on each July 1st, thirty (30) days following the adjustment date.
2. On each adjustment date, the then-current rates shall be multiplied by a fraction, the numerator of which is the twelve-month (12) average of the index for the current year and the denominator of which is the twelve-month (12) average of the index for the previous year, where the twelve-

month (12) average of the index is calculated by adding each monthly Index published from May through April and dividing such sum by twelve (12).

3. On or before each adjustment date, franchisee shall send to County a revised rate schedule reflecting the proposed new rates, as adjusted by the index as provided in this subsection. Upon adoption, the revised rate schedule shall become effective on July 1st of each year.

G. In addition to the annual cost of living adjustment provided in subsection (F) of this section, each year on or before April 1<sup>st</sup>, the franchisee will submit to County a rate review report (the "report") showing the actual allowable expenses incurred by franchisee in the preceding calendar year, all additional allowable expenses franchisee reasonably anticipates will be incurred or imposed in the current calendar year, the allocation formulas used to determine expenses, the actual operating ratio for the preceding calendar year, and the expected operating ratio for the current calendar year. If the report indicates that the operating ratio for the next succeeding twelve-month (12) period will be less than eighty-eight (88%) percent or greater than ninety-two (92%) percent, then rate review will automatically be implemented in accordance with this section. In addition, prior to April 15<sup>th</sup>, either franchisee or County may request a rate review to confirm that the operating ratio for the next succeeding twelve-month (12) period will be not less than eighty-eight percent (88%) and not greater than ninety-two percent (92%), provided, however, that not more than five (5) consecutive years shall pass during the term of this franchise without a formal rate review as set forth in this subsection. In the event a rate review is requested or required as provided hereunder, the following procedures shall bind County and franchisee:

1. No later than April 1<sup>st</sup>, franchisee shall submit to County a rate review report (the "report"). If there is reason to believe, based on County's review of the data from the report, that the operating ratio for the current calendar year will be less than eighty-eight (88%) percent or greater than ninety-two percent (92%), the report shall also include proposed rates for the current calendar year that are calculated in accordance with subsection (B) of this section to produce, franchisee's revenue requirement for such calendar year in light of all allowable expenses set forth in the report.

2. County shall review the report and, if County's review of the report indicates that the operating ratio is likely to be greater than ninety-two (92%) percent or less than eighty-eight percent (88%), County shall adopt rates for the current calendar year, either as proposed by franchisee in the report or as modified by County, no later than June 15<sup>th</sup>. The duly adopted rates shall become effective not later than July 1<sup>st</sup> and shall supersede the rates that were previously in effect.

3. In the event the report shows that the operating ratio for the current calendar year is not likely to be greater than ninety-two (92%) percent or less than eighty-eight percent (88%), the rates shall not be adjusted and

the current rates shall continue in effect until adjusted in accordance with subsection (F) of this section.

H. County shall set all policies and procedures respecting the implementation of rates and shall direct franchisee to carry out such policies and procedures. County, its agents or employees may, upon reasonable notice and during normal business hours, audit those records of franchisee that pertain to revenue and allowable expenses; provided, however, in reviewing such records, County and its agents and employees shall maintain such records in strict confidence and not disclose, divulge or transmit such records or copies of such records to any third party.

1. In the event franchisee, at any time, becomes liable to pay any new or increased legislated costs, including surcharges, fees or expenses associated with regulatory requirements, or any new or increased disposal and/or long-haul transportation costs or fees, and these costs represent in excess of two percent (2%) of gross revenue, the franchisee may request a rate review. County shall review the report and, if County's review of the report indicates that the operating ratio is likely to be greater than ninety-two (92%) percent or less than eighty-eight percent (88%), County shall adopt rates for the current calendar year, either as proposed by franchisee in the report or as modified by County, no later than 90 days after the rate request review.