

## DIVISION II. SOLID WASTE DISPOSAL

### Chapter 13.44

#### GENERAL PROVISIONS

##### Sections:

13.44.010 Short title.

13.44.020 Purpose, policy and scope.

13.44.030 Findings of fact and conclusions of law.

13.44.040 Authority.

13.44.010 Short title. This division shall be known as the "solid waste management and recycling ordinance" and may be so cited and pleaded and shall be cited herein as "this division." (Ord. 85-7-3 §1, 1985)

13.44.020 Purpose, policy and scope. To protect the health, sanitation, safety, welfare and environment of, to provide the opportunity to recycle within and to conserve energy and natural resources within the county, and to reduce, but not eliminate, dependence on landfills, it is the policy of the county to regulate solid waste management to:

A. Opportunity to Recycle. Provide an opportunity to recycle as part of the overall solid waste collection system taking advantage, where possible, of coordinated area-wide service, promotion, education and marketing.

B. Research and Development. Encourage research and demonstration projects in recycling, reuse, resource recovery and solid waste management generally by and through franchises with technical assistance of other persons.

C. Carry Out State Responsibilities. Carry out the responsibility and authority granted, delegate and imposed by ORS Chapter 459 and OAR Chapter 340, Divisions 60 and 61.

D. Guarantee Quality Service. Insure safe, economical and comprehensive solid waste management service and insure safe, efficient and economical accumulation, storage, collection, transportation, disposal or resource recovery of or from solid waste.

E. Fair Rates. Provide for just, fair, and equitable rates to classes of users of solid waste services that are adequate to provide necessary services to the public, recover net costs of recycling, justify investment in solid waste management systems and provide for equipment and systems modernization to meet environmental service requirements in compliance with the requirements of ORS 459.200.

F. Eliminate Duplicate Service. Eliminate duplication of service or routes to conserve energy and material resources, reduce air pollution, noise pollution and truck

traffic; and increase efficiency, thereby minimizing consumer cost.

G. Financial Stability and Financial Incentives. Insure maintenance of financially stable, reliable solid waste collection service and facilities and provide a basis and incentive for investment in waste handling equipment, facilities, sites, systems and new technology.

H. Standards and Responsibilities. Provide standards for solid waste service and public responsibilities.

I. Governmental Cooperation. Provide the basis for coordinated planning and cooperation between the cities within the county, the county and other local and state government units to achieve the purposes of this section.

J. Hazardous Waste. Protect against improper and dangerous handling of hazardous wastes.

K. Safety. Protect the safety of service workers, service equipment and the public.

L. Public Participation. Provide for public participation in solid waste management through the solid waste advisory committee and the board of commissioners.

M. Minimum Government Cost. Minimize regulatory cost and burden together with county staff time and expense.

N. Encouraging Private Industry and Volunteer Participation. (Ord. 85-7-3 §2, 1985)

13.44.030 Findings of fact and conclusions of law. The board of commissioners makes the following findings of fact and conclusions of law:

A. Basic Findings. To achieve the purposes of this division the board finds that it is necessary for the county, in cooperation with affected persons, to:

1. Set the levels of service required by the public in the fields of solid waste collection, solid waste disposal, resource recovery of materials or energy from wastes and the recycling or reuse of source-separated materials;
2. Make the necessary long-term governmental commitment to assure adequate investment in service facilities, equipment, and personnel;
3. Determine who will pay the costs of various services and how such costs are to be collected or assessed;
4. Occupy the field of solid waste management to the extent provided by law and regulate the accumulation, storage, collection, transportation, transfer, disposal, reuse and other resource recovery of solid wastes, and the recycling of recyclable materials; and
5. Displace competition with a system of regulated collection service which will efficiently provide the opportunity to recycle to more persons and recycle more materials.

B. Basis to Recognize Existing Franchisees. The board finds that collection service areas and responsibilities have been assigned by franchise since 1971 and have been renewed periodically. There is no necessity, nor public benefit, in bidding such service. The existing franchisees were selected because of their ability to provide adequate public service. On the basis of their performance of the requirements of their franchises and to provide continuity of service, the county should continue those franchises.

C. Opportunity to Recycle. To carry out ORS 459.165 to 459.200 and 459.250 and related statutes dealing with the opportunity to recycle, the board finds that it is necessary

to provide for:

1. Recycling collection service for residential, commercial, industrial and other customers and sources;
2. Recycling depots and other alternative services;
3. Landfill and transfer depot recycling and reuse services;
4. Notice and promotion of the various services;
5. Public education and awareness in cooperation with local government units, state agencies, schools, community service organizations and others interested in recycling;
6. Such further and other services as may be required by state statute, rules or regulations.

D. Assign Recycling. The board further finds that the assignment of persons to provide the collection service portion of the opportunity to recycle should give due consideration to those legally providing recycling or collection service on June 1, 1983, in accordance with the provisions of ORS 459.200(6) (c). Except for recycling collection service and other recycling services performed on June 1, 1983, or as may otherwise be assigned by the board as part of the opportunity to recycle report to be adopted pursuant to ORS 459.180, reuse and recycling collection services should be assigned to the franchise holders within their designated service areas. (Ord. 85-7-3 §3, 1985)

#### 13.44.040 Authority.

A. Occupies Field. This division occupies the field of solid waste management in the county to the full extent permitted by Oregon Revised Statutes and Oregon Administrative Rules.

B. Enacted for and on Behalf of State. This division is adopted pursuant to ORS 459.200(4) for and on behalf of the state to carry out:

1. The purposes of ORS 459.015;
2. The requirements of ORS 459.164 to 459.200 and related statutes and amendments to statutes by Chapter 729, Oregon Laws 1983 (SB 405);
3. Any waste reduction program now in effect or which may be required to qualify the county for loans under ORS 468.220;
4. The State Solid Waste Management Program; and
5. The provisions of Divisions 60 and 61 of OAR Chapter 340.

C. Matters of County Concern. Provisions of this division that are not specifically authorized or mandated by ORS Chapter 459 govern matters of county concern and therefore are adopted pursuant to ORS 203.035. (Ord. 85-7-3 §4, 1985)

## Chapter 13.48

### DEFINITIONS

Sections:

- 13.48.010 Definitions from Oregon Statutes.
- 13.48.020 Definitions from Oregon Administrative Rules.
- 13.48.030 Definitions generally.
- 13.48.040 Administrator.
- 13.48.060 Collection service or solid waste collection service.
- 13.48.070 Committee.
- 13.48.090 Franchise.
- 13.48.100 Franchisee.
- 13.48.110 Hazardous waste.
- 13.48.120 Limited recycling service.
- 13.48.130 Putrescible material.
- 13.48.140 Recyclable material.
- 13.48.150 Service.
- 13.48.160 Service area.
- 13.48.170 Waste reduction.
- 13.48.180 Wasteshed.
- 13.48.190 Interpretation.

13.48.010 Definitions from Oregon Statutes. The following terms shall have the meaning given them by ORS 459.005:

"Area of state," "commission," " department," " disposal site," "land disposal site," "land reclamation," "local government unit," "permit," "person," "resource recovery," "energy recovery," "material recovery," "recycling," "reuse," "solid waste," "solid waste management," "sourceseparate," "transfer station," and "waste." (Ord. 85-7-3 §5(1), 1985)

13.48.020 Definitions from Oregon Administrative Rules. The following terms shall have the meaning given them by OAR 340-60-010:

"Affected person," "collector," "depot," "director," "generator," "on-route collection," and "opportunity to recycle." (Ord. 85-7-3 §5(2), 1985)

13.48.030 Definitions generally. The terms set out in Sections 13.48.040 through 13.48.180 shall have the meaning stated in this division. (Ord. 85-7-3 §5(3) (part), 1985)

13.48.040 Administrator. "Administrator" means the public works director or his designee. (Ord. 89-11-2, 1989; Ord. 85-7-3 §5(3) (a), 1985)

13.48.060 Collection service or solid waste collection service. "Collection service or solid waste collection service" means a service that provides for collection of solid waste or both solid waste and recyclable material from persons who generate or produce the material. (Ord. 85-7-3 §5(3) (c), 1985)

13.48.070 Committee. "Committee" means solid waste advisory committee appointed pursuant to this division. (Ord. 90-10-2 §1, 1990; Ord. 85-7-3 §5(3) (d), 1985)

13.48.090 Franchise. "Franchise" means a landfill, transfer station, recycling or

collection service franchise granted, extended, continued or amended pursuant to this division. (Ord. 85-7-3 §5(3) (f), 1985)

13.48.100 Franchisee. "Franchisee" means a person to whom the board has granted a franchise. (Ord. 85-7-3 §5(3) (g), 1985)

13.48.110 Hazardous waste. "Hazardous waste" means any wastes defined as hazardous wastes by ORS Chapter 459 or applicable Oregon Administrative Rules or declared to be hazardous wastes by the board or administrator. (Ord. 85-7-3 §5(3) (h), 1985)

13.48.120 Limited recycling service. "Limited recycling service" means a service that provides for collection, transportation, disposal or material recovery of recyclable or reusable material, but is not provided in conjunction with a solid waste collection service franchise, a transfer station franchise or land disposal site franchise. (Ord. 85-7-3 §5(3) (i), 1985)

13.48.130 Putrescible material. "Putrescible material" means organic materials that can decompose and which may, upon decomposition, yield foul-smelling, offensive odors or byproducts. (Ord. 85-7-3 §5(3) (j), 1985)

13.48.140 Recyclable material. "Recyclable material" means any material or group of materials identified in the county's watershed report, or otherwise approved in accordance with applicable statutes and administrative rules, which can be collected and sold for recycling for consideration at least equal to the net cost of collection and disposal of the same material. (Ord. 85-7-3 §5(3) (k), 1985)

13.48.150 Service. "Service" means the collection, transport, transfer, disposal of, recycling or reuse of, or other resource recovery from, solid waste or recyclable or reusable materials. (Ord. 85-7-3 §5(3) (l), 1985)

13.48.160 Service area. "Service area" means an area designated by or pursuant to this division in which a person may perform one or more services. (Ord. 85-7-3 §5(3) (m), 1985)

13.48.170 Waste reduction. "Waste reduction" means reduction of the volume of waste that would otherwise be disposed of in a landfill disposal site through techniques such as source reduction, recycling, reuse or other resource recovery. (Ord. 85-7-3 §5(3) (n), 1985)

13.48.180 Watershed. The "watershed" is the county with any area added and less any deleted by mutual agreement with adjacent counties and approved by the Department of Environmental Quality and the Environmental Quality Commission. (Ord. 85-7-3 §5(3) (o), 1985)

### 13.48.190 Interpretation.

A. Words, terms and phrases which are not specifically defined in this division or applicable statutes or administrative rules shall have the meaning ascribed to them in the solid waste management industry, unless the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

B. When in the administration of this division or rules adopted pursuant to this division there is doubt regarding the intent of this division or rules, the administrator, after conferring with the county counsel, shall issue an interpretation to resolve the doubt.

C. Any person who is aggrieved and adversely affected by a decision of the administrator under subsection B may file a written request to have the decision reviewed by the committee. The request for review shall be submitted to the administrator within five days after the administrator issues the interpretation. (Ord. 90-10-2 §2, 1990)

D. Any person who is aggrieved and adversely affected by a decision of the committee under subsection C may file a written request to have the decision reviewed by the board. The request for review shall be submitted to the administrator within five days after the committee issues the interpretation. (Ord. 90-10-2 §2, 1990)

E. In the interest of promoting economy and efficiency in the management of county business, this division shall be liberally construed. Any interpretation of this division shall be based on the purpose and intent of this division as applied to the particular section in question. (Ord. 85-7-3 §5(4), 1985)

F. Interpretations issued under this section shall not have the effect of amending this division. (Ord. 90-10-2 §2, 1990)

## Chapter 13.52

### EXEMPTIONS

#### Sections:

13.52.010 Exemption for cities.

13.52.020 Exemptions generally.

13.52.030 Permit.

13.52.040 Prohibited activities.

13.52.010 Exemption for cities. This division does not apply within any incorporated city in absence of a mutual agreement under ORS 459.065 or ORS Chapter 190. (Ord. 85-7-3 §6(1), 1985)

13.52.020 Exemptions generally. A franchise is not required by this division for the following exempt activities:

A. Transportation of solid waste by the person who generated or produced such waste to a disposal site, resource recovery site or market so long as the waste was

generated in the county, and the person complies with Section 22, Administrative Rules adopted under this division, the provisions of ORS Chapter 459 and applicable Oregon Administrative Rules. In all cases where a person other than the owner occupies property, such person is the one who generates or produces such waste and, as such, is exempted by this subsection.

B. Transportation of solid waste by the owner of property, or employees or agents of the owner, if the solid waste was generated by the occupants of multifamily residential dwelling units; associations or cooperatives of property owners; shopping centers or shopping malls; or, other groupings of residential, commercial, industrial, recreational, governmental or institutional properties that are not located in the service area of a collection service franchisee.

C. Transportation of solid waste by the owner of property, or employees or agents of the owner, if the solid waste was left unlawfully by a tenant or occupant at the end of the term of the tenancy or occupancy.

D. Transporting, disposing of or resource recovering sewage sludge, septic tank pumpings, and cesspool pumpings.

E. Collection, transportation, disposal of or utilizing motor vehicles or motor vehicle parts by any person licensed as a motor vehicle wrecker under ORS 481.345, et seq.

F. Transportation and disposal of solid wastes by a contractor employed to demolish, construct or remodel a building or structure including, but not limited to, land-clearing operations and construction wastes, when the wastes are hauled in vehicles owned by, under the control of, or in the possession of the contractor or a subcontractor and hauled by the contractor's employees or a subcontractor's employees as a regular part of their employment.

G. Collection, transportation and reuse of repairable or cleanable discards by private charitable organizations regularly engaged in such business or activity including, but not limited to, Salvation Army, Goodwill Industries and similar organizations.

H. Collection, transportation or redemption of beverage containers under ORS 459.810 to 459.890.

I. Transportation or disposal of wastes by a person who produces the wastes as an incidental part of a janitorial service, gardening service or landscaping service. "Janitorial service" does not include the collection of accumulated or stored wastes.

J. Collection, transportation and reuse or recycling of totally source-separated materials by a religious, charitable, benevolent, fraternal, or public service organization, which was not organized for, nor is operated for, any solid waste management purpose and which is using the activities for fundraising drives.

K. Collection, transportation, or disposal of waste by employees of the federal, state, or county governmental agencies as an incidental part of services or activities that are lawfully performed by such governmental entities. This exemption shall not apply to independent contractors who are engaged by governmental agencies to provide collection or disposal services.

L. Collection, storage, processing, marketing or use of recyclable material which is source-separated by the generator and which is purchased from or exchanged by the generator for fair market value for recycling or reuse. If the administrator or an affected person questions whether any purchase or exchange of recyclable materials qualifies for

this exemption, the administrator shall review the issue, and make a decision on whether the activity qualifies for exemption under this subsection. The administrator's decision shall be based on the provisions of OAR 340-60-50 and the following factors:

1. The consideration paid or exchanged as fair market value for the recyclable material must be equal to or greater than the cost of collection and disposal of the recyclable material.

2. If the recyclable material is generated from an area that is covered by a franchise and the franchisee provides recycling service for a group of two or more recyclable materials in accordance with the provisions of this division, then the consideration paid or exchanged by the collector as fair market value must be equal to or greater than the cost of collection and disposal of the entire group of materials covered by the franchise.

3. The consideration paid or exchanged by a collector as fair market value may include monetary payments, goods, services and other tangible benefits for the generator.

4. For purposes of determining whether the consideration paid or exchanged as fair market value is equal to or greater than the cost of collection and disposal of the recyclable material the administrator should consider all direct and indirect costs incurred by the franchisee who collects the material as part of the franchised service, including, but not limited to costs of labor, materials, equipment, depreciation, facilities, insurance, bonding and overhead plus a reasonable allowance for profit. (Ord. 90-10-2 §3, 1990)

M. The siting, opening, operation or maintenance of a facility which is not open to the general public and is used only by one or more franchisees for the purposes of:

1. Reloading solid wastes or materials for transport to a disposal site; or
2. Depositing solid wastes and sorting out of reusable and recyclable materials with the remainder to be transported to a disposal site.

This exemption does not relieve franchisees from compliance with all state statutes and local ordinances and relevant rules and regulations to prevent nuisance, health, sanitation, pollution or other environmental problems.

N. Disposal of surplus property by a governmental agency in accordance with the county local contract review board rules.

O. Recycling activities of a sheltered workshop as defined in ORS 344.710.

P. Disposal of waste oil at automobile garages, service stations or similar facilities.

Q. Operation of transfer or land disposal sites by the county.

R. Resource recovery activities at county transfer stations or land disposal sites in accordance with a permit issued by the county.

S. Cleanup, damage control or other hazard abatement action that is necessary to eliminate a dangerous condition that results from an accident or other sudden occurrence. (Ord. 85-7-3 §6(2), 1985)

13.52.030 Permit. (renumbered 13.56.131, Ord 90-10-2 §12 1990)

13.52.040 (renumbered 13.56.140, Ord. 90-10-1 §4, 1990)

## Chapter 13.56

### ADMINISTRATION AND ENFORCEMENT

#### Sections:

- 13.56.010 Administrator--Responsibility. (repealed Ord 90-10-1 §1, 1990)
- 13.56.020 Administrator--Authority and duties.
- 13.56.030 Environmental health division.
- 13.56.040 Solid waste advisory committee--Authority.
- 13.56.050 Solid waste advisory committee--Actions.
- 13.56.060 Solid waste advisory committee--Composition.
- 13.56.070 Solid waste advisory committee--Term of appointment.
- 13.56.080 Solid waste advisory committee--Meetings.
- 13.56.090 Solid waste advisory committee--Quorum.
- 13.56.100 Solid waste advisory committee--Compensation, expenses.
- 13.56.110 Administrative rules--Adoption.
- 13.56.120 Administrative rules--Scope.
- 13.56.130 Administrative rules--Board approval.
- 13.56.131 Permits.
- 13.56.140 Public responsibilities--Generally.
- 13.56.141 Public responsibilities--Salvaging.
- 13.56.150 Public responsibilities--Hazardous wastes.
- 13.56.160 Public responsibilities--Accumulation of wastes and recyclable materials.
- 13.56.170 Public responsibilities--Removal frequency.
- 13.56.180 Public responsibilities--Hauling wastes.
- 13.56.181 Use of facilities.
- 13.56.182 Exclusion from facilities.
- 13.56.185 Disposal of wastes from other counties.
- 13.56.190 Abatement of public nuisances.
- 13.56.191 Cost of remediation.
- 13.56.192 Jurisdiction. (repealed by Ord 2001-5-1 §1, 2001)
- 13.56.193 Issuance of citation. (repealed by Ord 2001-5-1 §1, 2001)
- 13.56.194 Form and content of citation.(repealed by Ord. 2001-5-1 §1, 2001)
- 13.56.195 Service of citations.(repealed by Ord 2001-5-1§1, 2001)
- 13.56.196 Appearance.(repealed by Ord 2001-5-1 §1, 2001)
- 13.56.197 Waiver of hearing.(repealed by Ord 2001-5-1 §1, 2001)
- 13.56.198 Hearings.(repealed by Ord 2001-5-1 §1, 2001)
- 13.56.199 Hearing dates and notice.(repealed by Ord 2001-5-1 §1, 2001)
- 13.56.200 Security or bail sums.(repealed by Ord 2001-5-1 §1, 2001)
- 13.56.201 Failure to appear.(repealed by Ord 2001-5-1 §1, 2001)
- 13.56.202 Violation--Penalty.(repealed by Ord 2001-5-1 §1, 2001)
- 13.56.203 Jurisdiction.

- 13.56.204 Violation Proceedings.
- 13.56.210 Remedies deemed cumulative.

13.56.020 Administrator--Authority and duties. The administrator shall have the authority and duty to:

- A. Make recommendations to the committee and the board on all matters pertaining to the county's solid waste management program.
- B. Make recommendations to the committee and the board on amendments to this division and administrative rules adopted pursuant to Sections 13.56.110 through 13.56.130.
- C. Issue interpretations of this division in accordance with Section 13.48.190.
- D. Issue permits pursuant to Sections 13.52.030 or 13.92.060.
- E. Take any action necessary to ensure that franchisees comply with the provisions of their franchises and this division.
- F. Negotiate and make recommendations to the board on personal service contracts that are necessary for carrying out the purposes of this division.
- G. Review and make recommendations on applications for franchises, transfer of franchises and subcontracts for franchised services.
- H. Make recommendations on rates for services.
- I. Take any actions necessary to abate nuisances pursuant to Sections 13.56.140 through 13.56.180.
- J. Review and approve or deny exemptions under subsection L of Section 13.52.020 for purchase or exchange of recyclable or reusable materials for fair market value.
- K. Manage the county's solid waste disposal facilities by:
  - 1. Developing and implementing safety procedures.
  - 2. Designating facilities and areas for disposal of waste and recyclable material.
  - 3. Designating methods for disposal of certain types of waste and recyclable materials.
  - 4. Taking any other action necessary for efficient and effective use and development of county's facilities. (Ord. 90-4-1 §1, 1990)
- L. Perform any other acts that may be necessary to administer the county's solid waste management program. (Ord. 85-7-3 §19(2), 1985; Ord. 90-4-1 §1, 1990; Ord. 90-10-2 §4, 1990)

13.56.030 Environmental health division. The environmental health division of the county health and social services department shall be responsible for reviewing and inspecting the county's solid waste operations and facilities to assure compliance with environmental health laws, administrative rules and regulations. The administrator shall cooperate with the environmental health division on all aspects of solid waste management that affect public health. The solid waste administrator and the administrator of the health and social services department shall establish a written policy for coordination of the activities and duties of their departments. (Ord. 85-7-3 §19(3), 1985)

13.56.040 Solid waste advisory committee--Authority. The county solid waste advisory committee is established as an advisory body with the authority to assist and advise the board on solid waste management. The committee shall be responsible for overseeing the county solid waste management program to assure that purposes of this division are fulfilled. The committee shall have the authority and duty to:

- A. Make recommendations to the board in accordance with Chapter 13.80 on disposition of applications for new franchises, transfers of franchises, amendments of franchises and subcontracts for franchised services.
- B. Make recommendations to the board on termination, suspension or modification of franchises pursuant to Section 13.104.030.
- C. Make recommendations to the board on amendments to this division.
- D. Make recommendations to the administrator and the board on procedures and policies for the operation of the county's solid waste disposal facilities.
- E. Make recommendations to the board on rates for services in accordance with Section 13.100.030.
- F. Adopt administrative rules in accordance with Sections 13.56.110 through 13.56.130.
- G. Review and issue interpretations of this division pursuant to Section 13.48.190.
- H. Review and approve or reject policies established by franchisees pursuant to Section 13.84.090 and subsection G of Section 13.56.160.
- I. Review and approve or reject plans for cooperation between franchisees under Section 13.92.030.
- J. Review and approve or reject quality control policies established by franchisees pursuant to Section 13.92.040.
- K. Review and approve or deny termination or restriction of service under Section 13.84.100.
- L. Provide liaison between the county and the department of environmental quality and the environmental quality commission on matters concerning solid waste control. (Ord. 85-7-3 §20(1), 1985; Ord. 90-10-2 §5, 1990)

13.56.050 Solid waste advisory committee-Actions.

- A. Any actions taken by the committee pursuant to subsections A through E of Section 13.56.040 shall be subject to final review and approval by the board.
- B. Any action taken by the committee pursuant to subsections Section 13.56.040 shall take effect ten days after the committee gives the board written notice of the committee's action unless the board elects to review the committee's action before the ten days elapses. Upon review, the board may affirm, overrule or modify action of the committee.
- C. Any action taken by the committee pursuant to subsection G of Section 13.56.040 shall be final unless the board reviews the action under Subsection D of Section 13.48.190.
- D. Any action taken by the committee pursuant to subsections H through L of Section 13.56.040 shall be final without review by the board.
- E. Subject to the restrictions contained in this section, the committee shall have the authority to perform any actions ancillary to and necessary for carrying out the specific

duties assigned to the committee by Section 13.56.040. (Ord. 85-7-3 §20(2), 1985; Ord. 88-7-2 §1, 1988; Ord. 90-10-2 §6, 1990)

13.56.060 Solid waste advisory committee--Composition.

A. The committee shall consist of seven voting members and the nonvoting members specified in subsections C and D of this section.

B. The county planning director and the county health administrator, or his designated representative shall be ex-officio voting members.

C. In addition to the officials designated as voting members in subsection B of this section, the board shall appoint five qualified persons as voting members of the committee. No person shall be appointed as a voting member of the committee if a "business with which the person is associated", as defined in ORS 244.020, performs any service for which a franchise is required under this division.

D. The administrator and a representative of the department of environmental quality shall be an ex-officio nonvoting members of the committee.

E. Every franchisee may designate a representative to serve as a nonvoting member of the committee.

F. The board may direct other officers or employees of the county to assist and advise the committee. (Ord. 85-7-3 §20(3), 1985; Ord. 90-10-2 §7, 1990)

13.56.070 Solid waste advisory committee--Term of appointment.

A. The board initially shall appoint three voting members for terms of three years, and two voting members for terms of four years.

After the initial term, each voting member, other than the planning director and the health administrator shall be appointed for a term of four years. At the expiration of an appointed voting member's term, the board shall appoint a new member or may reappoint a member for a term of four years. If an appointed voting member is removed by the board or resigns from the committee any replacement members shall serve for the remainder of the term of the member being replaced.

B. Ex-officio members shall serve for indefinite terms until they are removed by the board or resign.

C. Representatives of franchisees shall serve as nonvoting members as long as the franchise is in effect.

D. All members of the committee shall serve at the pleasure of the board. (Ord. 85-7-3 §20(4), 1985; Ord. 90-10-2 §8, 1990)

13.56.080 Solid waste advisory committee--Meetings. The committee shall meet and organize by the election of a chair from among its voting members. The organizational meeting to elect a chair shall occur within thirty days after the ordinance codified in this division takes effect. Thereafter, the chair shall be elected between July 1<sup>st</sup> and July 31<sup>st</sup> each year. The committee shall meet at the call of the chair or any four voting members as necessary to perform the duties established by this division. The administrator shall assist the chair in scheduling meetings. The chair shall preside at all meetings of the committee and shall conduct the meetings in accordance with procedural rules established by the committee. The administrator shall provide a recording secretary for committee meetings.

The administrator shall be responsible for compliance with applicable provisions of ORS Chapter 192. (Ord. 85-7-3 §20(5), 1985)

13.56.090 Solid waste advisory committee--Quorum. Four voting members shall constitute a quorum. No decision shall be made by the committee unless a quorum is present. A majority of the members present at a meeting must vote in favor of any proposed decision or action of the committee before it may be implemented. (Ord. 85-7-3 §20(6), 1985)

13.56.100 Solid waste advisory committee--Compensation, expenses. The members of the committee shall receive no compensation for services provided as members, except for reimbursement of actual and necessary travel and other expenses incurred in the performance of their duties. Requests for reimbursement of expenses shall be submitted to the administrator. (Ord. 85-7-3 §20(7), 1985)

13.56.110 Administrative rules--Adoption. The committee shall have the authority to adopt, amend and repeal administrative rules as necessary for implementation of the county's solid waste management program. Prior to taking any action on rules under this section and Sections 13.56.120 and 13.56.130 the committee shall hold a public hearing on the proposed rules. The administrator shall give public notice of the hearing at least ten days prior to the hearing date. Notice may be given by posting in three public places within the county or by publication in a newspaper of general circulation in the county. (Ord. 85-7-3 §21(1), 1985; Ord. 90-10-2 §9, 1990)

13.56.120 Administrative rules--Scope. Administrative rules shall be consistent with the provisions of this division, ORS Chapter 459 and Oregon Administrative Rules Chapter 340, Divisions 60 and 61. Prior to scheduling a public hearing on proposed rules, the committee shall submit the rules to the county counsel, who shall review them for compliance with this section. Administrative rules may be adopted for the following purposes:

- A. To establish requirements for permits under Section 13.56.131.
- B. To provide guidelines for franchisee business policies that are covered by Section 13.84.090 of this division and policies covered by Section 13.56.160(G).
- C. To provide guidelines for cooperation between franchisees under Section 13.92.030 of this division.
- D. To provide guidelines for termination or restriction of service under Section 13.84.100.
- E. To establish standards for franchisees' equipment, facilities and service. (Ord. 85-7-3 §21(2), 1985; Ord. 90-10-2 §10, 1990)

13.56.130 Administrative rules--Board approval.

A. At its discretion, without prior action by the committee, the Board may adopt, amend or repeal administrative rules within the scope of Section 13.56.120.

B. If the board elects to review administrative rules in accordance with Section 13.56.050(C), or adopt, amend or repeal administrative rules in accordance with

subsection A of this section, the board shall comply with the provisions for notice and public hearing set forth in Section 13.56.110.

C. Regardless of whether the board reviews administrative rules adopted by the committee, the board, by written order, shall have all rules filed in the county journal within ten days after the rules take effect. (Ord. 85-7-3 §21(3), 1985; Ord. 90-10-2 §11, 1990)

#### 13.56.131 Permits.

A. The committee or the board may, by administrative rules adopted under Sections 13.56.110 through 13.56.130, require permits to carry on:

1. Activities listed in Section 13.52.010 (Ord. 85-7-3 §6(3), 1985)
2. Any activities at disposal sites.
3. Disposal of certain types of waste.
4. Disposal of waste generated outside Douglas County.

B. Fees for permits may be established under Chapter 13.100 of this Division.

C. The administrator shall have the authority to issue permits in accordance with administrative rules.

D. The administrator may suspend or terminate a permit upon finding that the permit holder has violated provisions of state laws, this division, administrative rules adopted under Chapter 13.56 of this division or the permit. (original section 13.52.030 renumbered and rev'd by Ord. 90-10-2 §12, 1990; Ord. 88-11-3 §1, 1988; Ord. 89-10-2 §2, 1989)

#### 13.56.140 Public Responsibilities--Generally.

A. Unless exempted by Section 13.52.010 or franchised under this division, no person shall:

1. Accumulate, store, collect or dispose of solid waste;
2. Collect or obtain recyclable or reusable material, or
3. Provide service, offer to provide service, solicit customers for service or advertise for service. (Ord. 85-7-3 §6(4), 1985)

B. No person shall engage in any activity for which a permit is required by administrative rules adopted under this chapter without first obtaining a permit. (original section repealed by Ord. 90-10-1 §3, 1990, renumbered to 13.56.140, Ord. 9010-§4, 1990; Ord. 85-7-3 §22(part), 1985; Ord. 88-11-3 §2, 1988)

13.56.141 Public Responsibilities--Salvaging. No person shall salvage waste or take recyclable or reusable material from any disposal site or landfill without a permit issued by the Administrator. (Ord. 89-10-2 §3, 1989)

13.56.150 Public responsibilities--Hazardous wastes. The following provisions shall apply to the collection and disposal of hazardous wastes:

A. Without prior written permission from a franchisee, no person shall place hazardous waste:

1. Out for collection by a collection franchisee.
2. In any can, container, box, or other storage container supplied by the franchisee or serviced by a franchisee.

3. Into or onto a vehicle, trailer, transfer trailer, transfer station, disposal site, resource recovery site or temporary or permanent depot owned, operated, or serviced by a franchisee.

B. Without prior written permission from the administrator, no person shall place hazardous waste:

1. In any can, container, box or other storage container supplied by the county or serviced by the county.

2. Into or onto a collection vehicle, trailers, transfer trailer, transfer station, disposal site, resource recovery site or temporary or permanent depot owned, operated, or serviced by the county.

C. It shall be the responsibility of the person who wants to dispose of hazardous waste to obtain the prior written permission of both the owner of the disposal site or other site to which the hazardous waste would be taken and the department.

D. Except as otherwise provided in ORS 459.410 to 459.690 and rules promulgated thereunder, this section does not apply to household waste generated at and by the occupants of a single-family residential dwelling unit. (Ord. 85-7-3 §22(1), 1985)

#### 13.56.160 Public responsibilities--Accumulation of wastes and recyclable materials.

A. Except as provided in subsection B of this section, the generator of wastes shall confine the wastes in cans, containers, boxes or other suitable receptacles pending collection and disposal of the wastes. Receptacles must be used in a manner that prevents wastes from blowing, dropping, sifting, leaking or otherwise escaping. If the wastes are to be collected by a franchisee, the wastes shall be stored for collection in accordance with policies of the franchisee that have been implemented pursuant to this division.

B. The provisions of subsection A of this section shall not apply to piles of debris or rubbish that do not contain putrescible materials, if the piles are collected for disposal within ten days after they are made.

C. The generator of source-separated recyclable materials that are to be collected by a franchisee shall bundle, package and store such materials in accordance with policies of the franchisee that have been implemented pursuant to this division.

D. Except as provided in subsection E of this section, the generator of wastes shall keep cans, containers, boxes and other receptacles for wastes clean and well maintained. The generator may contract with a franchisee to clean waste receptacles. The receptacles shall be cleaned in a way that does not allow wastes to blow, drop, sift, leak or otherwise escape onto the area where the receptacles are located.

E. If receptacles for wastes are used by multiple generators, the owner, landlord, or property manager of the premises for which the receptacles are provided shall be primarily responsible for compliance with Section 13.56.170 and subsections C and D of this section. The owner, landlord, or property manager and the generator of wastes may agree that the generator will perform any acts required by Section 13.56.170 and subsections C and D of this section, but such agreement shall not relieve the owner, landlord or property manager of primary responsibility for compliance with those provisions. The provisions of this subsection shall apply to multifamily residential dwelling units, associations of property

owners, cooperatives, shopping centers, shopping malls, and other centrally managed premises that are used by groups of residential, commercial, industrial, recreational, governmental or institutional generators of wastes. Nothing in this section shall be construed to prevent owners, landlords or property managers from charging generators for the costs of complying with this division.

G. Collection and limited recycling service franchisees may establish policies concerning accumulation and storage of wastes and recyclable materials by the franchisees customers, including, but not limited to, policies on types of receptacles, size of receptacles, packaging of recyclable materials, location of waste receptacles, cleaning and maintenance of receptacles access to stored wastes and recyclable materials. Such policies shall be consistent with the purposes and provisions of this division. Such policies shall be submitted to the committee for approval, which shall not be unreasonably withheld. (Ord. 85-7-3 §22(2), 1985)

13.56.170 Public responsibilities--Removal frequency. The following provisions shall apply to removal of accumulated wastes regardless of whether removal is handled by a franchisee:

A. All putrescible wastes shall be removed from all premises at least every seven days whether or not confined in a can, container, box or compactor.

B. Accumulated wastes shall be removed as frequently as necessary to prevent vector production or sustenance; conditions for transmission of disease to humans or animals; hazards to service or disposal workers or the public; air pollution; water pollution; escape of solid wastes or contaminated water to public water; or objectionable odors, dust, unsightliness, or other nuisance conditions. (Ord. 85-7-3 §22(3), 1985)

13.56.180 Public responsibilities--Hauling wastes. When a person transports wastes to a disposal site or transfer station, such person shall not:

A. Dispose of waste at any place other than a lawful and authorized disposal site or transfer station. (rev'd during codification)

B. Fail to enclose waste in a receptacle, container, box, trailer, or vehicle or otherwise allow waste to drop, sift, leak, or escape onto any private or public property. (Ord. 85-7-3 §22(4), 1985; rev'd during codification)

13.56.181 Use of facilities. Any person who uses a transfer station or disposal site shall:

A. Comply with administrative rules adopted under this chapter.

B. Comply with directions of representatives of the county (including attendants who are employed by an independent contractor retained by the county) regarding the methods of disposal, the place where wastes are to be deposited and safety precautions. (Ord. 88-7-2 §4, 1988)

C. Comply with signs designating the areas and methods of disposal of waste and recyclable material. (Ord. 90-4-1 §2, 1990)

13.56.182 Exclusion from facilities. Any person who violates any provision of this division or administrative rules adopted under this chapter regarding use of transfer

stations or disposal sites may be directed by representatives of the county to leave the transfer station or disposal site. (Ord. 88-7-2 §4, 1988)

13.56.185 Disposal of wastes from other counties. No person shall dispose of waste at a transfer station or disposal site if the waste is generated outside Douglas County, unless disposal of the waste is authorized by a franchise agreement or a permit issued under this division. (Ord. 88-11-1 §4, 1988; Ord. 90-10-1 §5, 1990)

13.56.190 Abatement of public nuisances. Storage, accumulation, collection, transportation or disposal of solid wastes, reusable materials or recyclable materials, or performance of service, by any person in violation of this division or administrative rules promulgated under Sections 13.56.110 through 13.56.130 of this division is a public nuisance. In addition to other remedies provide by law or this division, the board may direct the county counsel to institute appropriate legal proceedings to enjoin or otherwise abate any conduct, act or situation that constitutes a nuisance under this division. (Ord. 85-7-3 §23(1), 1985)

13.56.191 Cost of Remediation. Any costs incurred by the county to remedy conditions caused by a violation of any provision of this division may be recovered from the person who committed the violation through a civil action in circuit or district court. (Ord. 90-4-1 §3, 1990)

13.56.203 Jurisdiction. The Circuit Court for the State of Oregon for the County of Douglas has jurisdiction over any and all violations of the Solid Waste Management and Recycling Ordinance. (Ord. 2001-5-1 §2, 2001)

13.56.204 Violation Proceedings.

A. The Public Works Director is delegated the authority to designate, from time to time, specific employees of the Public Works Department that are authorized to issue citations for the commission of violations of the Solid Waste Management and Recycling Ordinance. The Public Works Director and the employees so designated shall be deemed to be "enforcement officers," within the meaning of ORS 153.005 to 153.145.

B. Violations of the Solid Waste Management and Recycling Ordinance shall be deemed to be "violations," within the meaning of ORS 153.008. Violations of the Solid Waste Management and Recycling Ordinance are punishable by fines as established by the State Court Administrator for unclassified violations.

C. The sentence to pay a fine for a violation committed by a corporation shall be in an amount twice the fine established for a violation by an individual.

D. Violation proceedings shall follow the process set forth in ORS 153.005 to 153.145. (Ord. 2001-5-1 §3 2001)

13.56.210 Remedies deemed cumulative. The penalties and civil remedies for violations of this division shall be in addition to, not in lieu of, other penalties or remedies established by state or federal law. (Ord. 85-7-3 §23(3), 1985; Ord 90-10-1 §6, 1990)

## Chapter 13.60

### EXISTING FRANCHISES AND RECYCLING SERVICES

#### Sections:

13.60.010 Continuation and extension.

13.60.020 Existing recyclers.

13.60.010 Continuation and extension. If a collection service franchise previously granted by the county is in effect on the effective date of the ordinance codified in this division, such franchise is extended and continued and is expanded to include both the services previously franchised and the responsibilities imposed by this division. Subject to Section 13.60.020 of this chapter, where the franchise does not cover a reuse or recycling service provided by the franchisee since the earlier of June 1, 1983, or the effective date of the ordinance codified in this division, the franchise is expanded to include such service. Where such service or a depot is also provided under Section 13.60.020 by another person within the designated service area, the franchise for such services or depots shall be coexistent, but shall be exclusive as to other persons. (Ord. 85-7-3 §7(1), 1985)

13.60.020 Existing recyclers. Persons not included in Section 13.60.010 who were providing on June 1, 1983, and are continuing to provide, limited recycling services that were lawful under the prior solid waste collection and disposal ordinance, may apply for and shall be granted a franchise for such services. (Ord. 85-7-3 §7(2), 1985)

## Chapter 13.64

### COLLECTION SERVICE FRANCHISE--REQUIREMENTS

#### Sections:

13.64.010 Existing collection service franchisees.

13.64.020 New collection service franchises--Approval.

13.64.030 Continuing requirements.

13.64.010 Existing collection service franchisees. Existing franchisees covered by Section 13.60.010 shall:

A. Sign franchise agreements prepared by the administrator within sixty days following the adoption of the ordinance codified in this division.

B. Comply, on a continuing basis, with all requirements of Section 13.64.030.  
(Ord. 85-7-3 §8(1), 1985)

13.64.020 New collection service franchises--approval. Applications for a new collection service franchise shall fully set forth any type of collection service including, but not limited to, the opportunity to recycle, that will be provided by the applicant directly or through subcontract. The applicant shall state what collection service or other service involving collection could be provided by joint franchise with another person. An applicant for a new collection service franchise must demonstrate to the satisfaction of the board that the applicant:

- A. Has a majority of service accounts actually served in the designated or proposed service area, which may be evidenced by a customer list; or
- B. If not already serving a designated or proposed service area, would serve a service area which is not franchised to another person;
- C. Will be able to comply with the requirements of Section 13.64.030. (Ord. 85-7-3 §8(2), 1985)

13.64.030 Continuing requirements. During the franchise term, collection service franchisees shall provide and maintain:

A. Adequate collection vehicles, equipment, facilities, personnel, and financial capability sufficient to provide the actual or proposed service and to meet any standards established as a condition for the issuance of the franchise.

B. Key personnel with adequate experience to provide and maintain the service covered by the franchise.

Such personnel should have knowledge of or experience in trucks and transportation, transfer, satellite vehicles, recycling and reuse, and solid waste and waste reduction planning.

C. A corporate surety bond by a company authorized to do business in the state guaranteeing performance of service in accordance with terms of the franchise; compliance with all applicable statutes, ordinances, rules and regulations. The bond shall be in an amount not less than twenty thousand dollars. The requirement to provide a bond may be waived by the board.

D. A comprehensive general liability policy including coverage for contractual liability for obligations assumed under the franchise, blanket contractual liability, owner's and contractor's protective insurance and comprehensive automobile liability including owned and nonowned automobiles.

The insurance coverage required by this section shall meet the coverage requirements for claims made under the Oregon Tort Claims Act.

Certificates of insurance acceptable to the county shall be filed with the county. (Ord. 85-7-3 §8(3), 1985)

## Chapter 13.68

### LAND DISPOSAL SITE FRANCHISE--REQUIREMENTS

Sections:

- 13.68.010 Application--Approval.
- 13.68.020 Department of Environmental Quality application.
- 13.68.030 Continuing requirements.
- 13.68.040 Services to be supplied.

13.68.010 Application--Approval. An application for a land disposal site franchise shall fully set forth the scope of the proposed franchise including resource recovery services that will be provided by the prospective franchisee. The applicant must demonstrate to the satisfaction of the board that the applicant will be able to comply with the requirements of Section 13.68.030. If the service area the applicant proposes to serve overlaps or duplicates the service area of another disposal site within or without this county, the applicant shall demonstrate the need for such a site and how the site will affect existing disposal sites. (Ord. 85-7-3 §9(1), 1985)

13.68.020 Department of Environmental Quality application. A copy of the state application for approval of the land disposal site and all relevant material filed with the department shall also be filed as part of the county application before a franchise is effective. The board may delay a final decision on a franchise until such material has been filed. (Ord. 85-7-3 §9(2), 1985)

13.68.030 Continuing requirements. During the franchise term, land disposal site franchisees shall provide and maintain:

A. A sufficient interest in the land on which the proposed franchise disposal site will be located to assure:

1. Continued availability of the land for use as a disposal site.
2. The ability to comply with the closure and post-closure requirements of ORS Chapter 459.
3. Adequate transport access to the site.
4. A continuing right of entry for the county, its officers, agents, and employees to determine compliance with the franchise and to perform any acts authorized by this division.

B. Adequate land, landfill equipment, vehicles, facilities, personnel and financial capability to provide the proposed service, and to meet conditions for the issuance of the franchise, together with the requirements of this division, ORS Chapter 459 and rules promulgated thereunder.

C. Key personnel with adequate experience in providing and maintaining the service covered by the franchise.

Such personnel should have knowledge of or experience in solid waste planning, waste reduction planning, recycling and reuse, resource recovery, training and supervision of disposal site employees, preventing air, water or land pollution, preventing or controlling discharges or escapement, design, operation and maintenance of disposal sites, closure and post-closure of disposal sites, and hazardous waste management.

D. A corporate surety bond by a company authorized to do business in the state guaranteeing performance of service in accordance with terms of the franchise; compliance with all applicable statutes and ordinances, rules and regulations. The bond

shall be in an amount not less than one hundred thousand dollars. The requirement to provide a bond may be waived by the board.

E. A comprehensive general liability policy including coverage for contractual liability for obligations assumed under the franchise, blanket contractual liability, owner's and contractor's protective insurance, nonsudden pollution, and comprehensive automobile liability including owned and nonowned automobiles.

The insurance coverage required by this section shall meet the coverage requirements for claims made under the Oregon Tort Claims Act.

Certificates of insurance acceptable to the county shall be filed with the county.

F. A current and valid department permit for the site. A permit shall be considered valid unless expired or unless revoked by final action of the department or commission or the appropriate court on appeal. (Ord. 85-7-3 §9(3), 1985)

13.68.040 Services to be supplied. If a franchise is approved, the franchise agreement shall specify:

A. The classes of persons who will use the facility including, without limitation, self-hauling general public or franchised haulers.

B. The types and quantities of wastes which will be received or be excluded from the disposal site.

C. The minimum area to be served. Applicants may voluntarily serve a greater area, but nothing in this division or a franchise issued hereunder shall require them to do so. (Ord. 85-7-3 §9(4), 1985)

## Chapter 13.72

### TRANSFER STATION FRANCHISE--REQUIREMENTS

#### Sections:

13.72.010 Transfer station to meet land disposal site requirements.

13.72.010 Transfer station to meet land disposal site requirements.

Subject to a partial waiver by the board, applicants for a transfer station franchise shall meet all applicable requirements for a land disposal site. (Ord. 85-7-3 §10, 1985)

## Chapter 13.76

### LIMITED RECYCLING SERVICE FRANCHISE--REQUIREMENTS

Sections:

- 13.76.010 Applicability.
- 13.76.020 Existing providers.
- 13.76.030 Recycling collection service.
- 13.76.040 Temporary recycling depots.
- 13.76.050 Permanent recycling depots.

13.76.010 Applicability. Applications for limited recycling service franchises, including, but not limited to, recycling collection service and recycling depots shall be subject to the requirements of this chapter. This chapter shall not apply to recycling service that is provided in conjunction with a solid waste collection service franchise, a transfer station franchise or a land disposal site franchise. (Ord. 85-7-3 §11(part), 1985)

13.76.020 Existing providers. Existing providers of recycling, reuse or depot service covered by Section 13.60.020 shall:

A. Sign franchise agreements prepared by the administrator within sixty days following the adoption of the ordinance codified in this division.

B. On a continuing basis, comply with all of the requirements of Section 13.64.030. (Ord. 85-7-3 §11(1), 1985)

13.76.030 Recycling collection service. Applications for limited recycling and reuse franchises involving collection of recyclable or reusable materials shall be subject to the relevant requirements of Chapter 13.64. (Ord. 85-7-3 §11(2), 1985)

13.76.040 Temporary recycling depots. Applications for temporary depot franchises involving containers or boxes, located on land belonging to another person, shall be subject to relevant requirements of Chapter 13.64. (Ord. 85-7-3 §11(3), 1985)

13.76.050 Permanent recycling depots. Applications for permanent depot franchises shall be subject to relevant requirements of Chapter 13.68. (Ord. 85-7-3 §11(4), 1985)

Chapter 13.80

FRANCHISE ISSUANCE PROCEDURE

Sections:

- 13.80.010 Applicability.
- 13.80.020 Application.
- 13.80.030 Administrator review.
- 13.80.040 Notice to franchise holder affected by application.

- 13.80.050 Administrator recommendation.
- 13.80.060 Committee review and recommendation.
- 13.80.070 Board review and hearing.
- 13.80.080 Notice of hearing.
- 13.80.090 Board action.
- 13.80.100 Franchise agreement.
- 13.80.110 Franchise amendment.
- 13.80.120 Limitation on reapplication.
- 13.80.130 Franchise effective date.
- 13.80.140 Exclusive and joint franchises.
- 13.80.150 Fees.

13.80.010 Applicability. The procedure set forth in this chapter shall apply to all franchises issued under this division, except existing franchises that are continued under Chapter 13.60. These procedures also shall apply to all transfers of franchises. (Ord. 85-7-3 §12(part), 1985)

13.80.020 Application. Prospective franchisees shall submit applications for franchises on forms provided by the administrator. The applicant shall pay any application fee that is established pursuant to this division. The administrator may require an applicant to provide any documentation that the administrator deems necessary for evaluation of the application. (Ord. 85-7-3 §12(1), 1985)

13.80.030 Administrator review. The administrator shall review each application to determine if it is complete or if more information is required. (Ord. 85-7-3 §12(2), 1985)

13.80.040 Notice to franchise holder affected by application. Franchise holders whose franchise may be affected by an application shall be given copies of the application, any recommendation by the administrator and committee, and the final decision of the board. (Ord. 85-7-3 §12(3), 1985)

13.80.050 Administrator recommendation. When the applicant has supplied all required information, the administrator shall make a recommendation to the committee. (Ord. 85-7-3 §12(4), 1985)

13.80.060 Committee review and recommendation. The committee shall review the application, may hold an informational hearing thereon and shall make a recommendation to the board. (Ord. 85-7-3 §12(5), 1985)

13.80.070 Board review and hearing. The board shall review the application, supplemental information supplied by the applicant and the recommendations of the administrator and committee. The board may require additional information to be submitted by the applicant. The board shall hold a public hearing on the application at which interested persons may appear and present evidence. (Ord. 85-7-3 §12(6), 1985)

13.80.080 Notice of hearing. Written notice of a hearing by the committee or the board under this chapter shall be mailed to any franchise holder who may be affected by the hearing at least ten days prior to the hearing date. Notice to the general public of a public hearing by the board shall be by publication in a newspaper of general circulation in the county at least ten days prior to a hearing. (Ord. 85-7-3 §12(7), 1985; Ord. 88-7-2 §2, 1988)

13.80.090 Board action. After the hearing, the board shall make written findings on whether the application satisfies the requirements established by this division for approval of a franchise. Final action shall be by order of the board based upon the findings. The order shall state whether the application is approved, approved with special conditions, or denied.

The board may attach such conditions to approval of a franchise as it deems necessary to insure compliance with this division. (Ord. 85-7-3 §12(8), 1985)

13.80.100 Franchise agreement. If a franchise is approved by the board, the franchisee shall sign a written franchise agreement which incorporates the conditions of approval. The franchise agreement shall contain provisions on:

- A. The scope of service to be provided by the franchisee.
- B. Recyclable materials or groups of materials covered by the franchise.
- C. The geographic area covered by the franchise. (Ord. 85-7-3 §12(9), 1985)

13.80.110 Franchise amendment. A franchisee may request amendment of the franchise agreement by filing an application with the administrator. The application shall be reviewed in accordance with the procedures established by this chapter. (Ord. 85-7-3 §12(10), 1985)

13.80.120 Limitation on reapplication. If any portion of the order issued pursuant to Section 13.80.090 is adverse to the applicant, no further franchise application shall be submitted by the applicant covering that same subject or subjects for one year from the effective date of the board order. (Ord. 85-7-3 §12(11), 1985)

13.80.130 Franchise effective date. Franchises granted by the board shall become effective and service may begin on the later of:

- A. The date specified in the franchise agreement;
- B. A final land use approval as may be required on a disposal site, or other facility that is part of the franchised service; or
- C. A final department or commission approval on any state permit for a disposal site, or other facility. (Ord. 85-7-3 §12(12), 1985)

13.80.140 Exclusive and joint franchises. With the following exceptions, any franchise granted by the board shall be exclusive within the designated service area. The following franchises shall not be exclusive as between other holders within a service area but shall be exclusive as to all other persons:

- A. A reuse or recycling service, recycling collection or depot franchised under

Section 13.60.020.

B. A disposal site or transfer station or depot where the board finds the need for more than one such facility in the designated service area.

C. A collection service where the franchisee is not able to provide a special service or type of service or quantity of service and has not made provision by a subcontract with another person. (Ord. 85-7-3 §12(13), 1985)

13.80.150 Fees. The board shall have the authority to establish fees for issuing, transferring, and continuing franchises under this division. The board shall request a recommendation from the committee on franchise fees. After reviewing the committee's recommendation, the board shall enter a written order setting fees for each type of franchise. (Ord. 85-7-3 §12(14), 1985)

## Chapter 13.84

### FRANCHISEE RESPONSIBILITIES

#### Sections:

13.84.010 Generally.

13.84.020 Franchisee services.

13.84.030 Special services.

13.84.040 Complaints.

13.84.050 Records and accounting.

13.84.060 Inspection.

13.84.070 Equipment and facilities.

13.84.080 Hazardous wastes.

13.84.090 Business policies.

13.84.100 Termination of service.

13.84.010 Generally. Every franchise shall be subject to the conditions set out in this chapter. (Ord. 85-7-3 §13(part), 1985)

13.84.020 Franchisee services. Franchisees shall furnish the level and type of services covered by the franchise together with any additional services or changes in services as directed by the committee or the administrator. The administrator or the committee may direct the franchisee to provide special temporary emergency services at established rates or at a cost plus a reasonable allowance for overhead and profit, if there are no established rates. (Ord. 85-7-3 §13(1), 1985)

13.84.030 Special services. Where not listed in this division, the franchise or the rate schedule, special services may be provided to a customer at a price and on terms negotiated with the customer. (Ord. 85-7-3 §13(2), 1985)

13.84.040 Complaints. Franchisees shall respond to any written complaint on service and report any unresolved complaint in writing to the administrator. (Ord. 85-7-3 §13(3), 1985)

13.84.050 Records and accounting. Franchisees shall keep accurate books and records which shall be open during regular business hours for inspection and review by a qualified person designated by the administrator. (Ord. 85-7-3 §13(4), 1985)

13.84.060 Inspection. Franchisees shall permit inspection of service, equipment, facilities and land by the administrator, committee or board. Except for emergency conditions, such inspections shall be during regular business hours, and a person specified by the franchisee in writing shall be notified in advance and shall be present at the inspection. (Ord. 85-7-3 §13(5), 1985)

13.84.070 Equipment and facilities. Franchisees shall furnish sufficient equipment, collection vehicles, containers, boxes, land and facilities, as may be required by the franchise and this division. (Ord. 85-7-3 §13(6), 1985)

13.84.080 Hazardous wastes. Nothing in this division requires a franchisee to store, collect, transport, dispose of or resource-recover any hazardous waste; provided, however, that the franchisee may engage in the management of hazardous wastes in compliance with all federal and state laws, rules or regulations. (Ord. 85-7-3 §13(7), 1985)

13.84.090 Business policies. Franchisees shall establish reasonable, equitable and prudent policies for billing customers. Such policies shall be consistent with the purposes and provisions of this division. Such policies shall be submitted to the committee for approval. (Ord. 85-7-3 §13(8), 1985)

13.84.100 Termination of service. A franchisee may terminate or restrict service to a customer within the franchisee's service area in accordance with this section. An aggrieved customer may file a written request with the administrator for review of the franchisee's decision to terminate or restrict service not later than ten days after the customer is notified about the decision. The administrator shall review the matter and submit a written recommendation to the committee. After reviewing the administrator's recommendation and other relevant information concerning the franchisee's action, the committee shall either direct the franchisee to resume service or approve termination or restriction of service. The decision of the franchisee should be approved if:

A. There are conditions in the service area which make continued service hazardous to the franchisee's workers or equipment or the public; or  
B. There is inadequate access to the service area; or  
C. The customer has failed to pay fees or fulfill other obligations established by this division, business policies of the franchisee that have been approved pursuant to Section 13.84.090 of this division, or a service contract between the franchisee and the customer;  
or

D. There are other conditions beyond the control of the franchisee that materially

impair the ability of the franchisee to provide the service that the franchisee desires to terminate or restrict. (Ord. 85-7-3 §13(9), 1985; Ord. 88-7-2 §3, 1988)

## Chapter 13.88

### TRANSFER OF FRANCHISE

#### Sections:

13.88.010 Prior approval of transfer or pledge.

13.88.020 Application.

13.88.030 Subcontracts.

13.88.010 Prior approval of transfer or pledge. No franchise or any interest therein shall be transferred by operation of law, enforcement of creditors' rights, marital dissolution or other voluntary or involuntary action without prior approval of the board. If the franchise is held by a corporation, a stock transfer that would result in changing the controlling interest in a corporation shall be considered a transfer of the franchise. (Ord. 85-7-3 §14(1), 1985)

13.88.020 Application. Applications for transfer of a franchise shall be on forms furnished by the administrator. The application shall be signed by the existing franchise holder and the person to whom the franchise will be transferred. Transferees shall be subject to all of the requirements that apply to applicants for a new franchise. Applications for transfer of a franchise shall be subject to review and approval under Chapter 13.80 of this division. (Ord. 85-7-3 §14(2), 1985)

13.88.030 Subcontracts. A franchisee shall not subcontract with others to provide any part of the services covered by the franchise without the prior approval of the board. Applications for approval of a subcontract shall be reviewed in the same manner as applications for transfer of a franchise. Approval of a subcontract shall not relieve the franchisee from responsibility for providing and maintaining service in accordance with the terms of the franchise and this division. (Ord. 85-7-3 §14(3), 1985)

## Chapter 13.92

### PROVISION FOR RECYCLING OPPORTUNITIES

#### Sections:

- 13.92.010 Service provider defined.
- 13.92.020 Assignment of responsibility.
- 13.92.030 Cooperative recycling.
- 13.92.040 Quality control.
- 13.92.050 Ownership of materials.
- 13.92.060 Resource recovery at county facilities.

13.92.010 Service provider defined. For purposes of this chapter, "service provider" means and includes a franchisee, two or more joint franchisees or any other person who provides the required recycling services. (Ord. 85-7-3 §15(1), 1985)

13.92.020 Assignment of responsibility. The responsibility for providing the minimum opportunity to recycle shall be as follows:

A. Land disposal sites and transfer sites shall provide a place for the public or franchisees to bring recyclable materials on site unless an alternative depot or other system is approved.

B. Depots shall provide a place for the public or franchisees to bring recyclable materials. The board upon recommendation of the committee may find that a depot is a more convenient location than a land disposal site, transfer station, or other disposal or resource recovery site.

C. Alternative methods or systems may be established by the board upon recommendation of the committee.

D. Education for recycling shall be a shared responsibility between the county and the service provider. It is the intent of the county to enlist the aid of volunteers, civic service organizations, educational institutions, fraternal organizations, media, businesses, local government units, the department, the commission and others in this program.

E. Promotion and notice of recycling service and programs shall be the responsibility of the service provider with such assistance as may be provided by the county and other persons.

F. Except as provided in Section 13.60.020, the collection service franchisee shall provide all the collection service portion of the opportunity to recycle within the franchisee's designated service area. (Ord. 85-7-3 §15(2), 1985)

13.92.030 Cooperative recycling. Subject to the approval of the committee, collection franchise holders may cooperate to provide the opportunity to recycle and to market recyclable materials. Franchisees who want to cooperate under this section shall

submit a written request for approval of their proposed action to the committee. Before the committee reviews the request, the administrator shall review the request and make a recommendation to the committee. The committee shall make findings required by ORS 459.200(11) and approve, approve with conditions or deny the franchisee's request. (Ord. 85-7-3 §15(3), 1985)

13.92.040 Quality control. Franchisees may impose requirements on those participating in source separation programs to assure quality control necessary for successful processing and marketing. Such requirements shall be filed with and approved by the committee prior to implementation. (Ord. 85-7-3 §15(4), 1985)

13.92.050 Ownership of materials.

A. Recyclable materials, reusable materials, and wastes placed out for collection by a customer of a franchisee or delivered to a franchisee shall be the property of the franchisee and shall not be removed or collected without the consent of the franchisee.

B. Recyclable materials, reusable materials and wastes that are collected by or delivered to a person for resource recovery authorized by a permit issued pursuant to Section 13.52.030 or Section 13.92.060 of this chapter shall be the property of the permit holder.

C. Recyclable materials, reusable materials and wastes that are disposed of at a county land disposal site or transfer station, except materials that are covered by subsections A and B of this section, shall be the property of the county. (Ord. 85-7-3 §15(5), 1985)

13.92.060 Resource recovery at county facilities. The administrator may issue permits to persons for recycling, reuse or other resource recovery activities at county land disposal sites or transfer stations. The permits shall be subject to administrative rules promulgated under subsection A of Section 13.56.120. (Ord. 85-7-3 §15(6), 1985)

## Chapter 13.96

### INTERRUPTION OF SERVICE

#### Sections:

13.96.010 Authority.

13.96.020 Notice and hearing.

13.96.030 Correction or takeover.

13.96.040 Return to franchisee.

13.96.050 Condition of franchise.

13.96.010 Authority. The board may act to prevent an actual or threatened interruption of service by a franchisee which the board finds would create a health hazard

or public nuisance. (Ord. 85-7-3 §16(1), 1985)

13.96.020 Notice and hearing. If the board finds there is an actual or threatened interruption, it shall give the franchisee twenty-four hours' notice and an opportunity for a public hearing before taking any action under this chapter. However, if the board finds that irreversible damage to persons or property or dangerous escapement of pollutants into the environment will occur without immediate corrective action, the board may act without prior notice and hearing. (Ord. 85-7-3 §16(2), 1985)

13.96.030 Correction or takeover. If the franchisee fails to take required corrective action within a time specified by the board, the board may order the administrator or authorize another franchisee or other person to take over and operate the franchisee's land, facilities, equipment, office and personnel devoted to the franchised business. (Ord. 85-7-3 §16(3), 1985)

13.96.040 Return to franchisee. Upon abatement of the actual or threatened interruption, the county or other person shall return all of franchisee's property in the same condition as when taken, except for reasonable wear and tear. All receipts shall be returned to the franchisee less costs of performing the service during takeover and costs of the abatement. (Ord. 85-7-3 §16(4), 1985)

13.96.050 Condition of franchise. The authority of the county under this chapter is a condition precedent to granting, and a continuing condition for holding, any franchise under this ordinance, and is granted by the franchisee's written acceptance of such franchise. (Ord. 85-7-3 §16(5), 1985)

## Chapter 13.100

### RATE SETTING PROCEDURE

#### Sections:

- 13.100.010 Establishment--Generally.
- 13.100.020 Existing rates.
- 13.100.030 Rate changes.
- 13.100.040 Fixed rates.
- 13.100.050 Rate standards.
- 13.100.060 Rates for use of facilities operated by county.

13.100.010 Establishment--Generally. Rates for services that are provided to customers by franchisees, rates for use of facilities operated by the county under this division and fees for permits issued under subsection 13.53.030 shall be established in accordance with this chapter. (Ord. 85-7-3 §17(part), 1985; Ord. 88-11-1 §2, 1988)

13.100.020 Existing rates. Rates adopted or approved by the board prior to the effective date of the ordinance codified in this division shall remain in effect until changed pursuant to this division. (Ord. 85-7-3 §17(1), 1985)

13.100.030 Rate changes. Rates may be changed only in accordance with the following procedures:

A. When a franchisee proposes to change one or more rates, the franchisee shall submit a written request to the administrator stating the existing and proposed rate or rates. The request shall be submitted on a form provided by the administrator and shall include all information requested by the administrator.

B. The administrator:

1. May require the franchisee to submit additional information to justify the change.
2. May designate a qualified person to review the books and records of the franchisee. Information revealed by such review shall be kept confidential.
3. Shall forward a recommendation to the committee based on the information reviewed by the administrator and the standards in Section 13.100.050 of this chapter.

C. The committee:

1. Shall hold an informational meeting on the request.
2. Shall review the request, the administrator's recommendation, information submitted by the franchisee and any evidence presented at the information meeting.
3. Shall make an initial determination on the rates applying the standards in Section 13.100.050 of this chapter and forward that initial determination to the board.

D. The board:

1. Shall call a public hearing on the request.
2. Shall review the request, recommendations of the committee and administrator, and evidence presented at the public hearing.
3. Shall make written findings and conclusions of concerning the request.
4. Shall make a final determination accepting, modifying or rejecting the request.

E. Notices. Unless waived by the franchisee, the administrator shall give twenty days' prior written notice to the franchisee of meetings of or hearings before the committee or board. Notice to the general public of a public hearing by the board shall be by publication in a newspaper of general circulation in the county at least ten days prior to a hearing. (Ord. 85-7-3 §17(2), 1985; Ord 88-7-2 §4, 1988) (Ord. 2005-12-04, 1-11-06)

13.100.040 Fixed rates. Where the service is covered by the rate schedule, the franchisee shall charge the rate set by the board. The franchisee may delay charging a new approved rate increase until a time determined by the franchisee. (Ord. 85-7-3 §17(3), 1985)

13.100.050 Rate standards. Rates established pursuant to this chapter:

- A. Shall comply with applicable provisions of ORS Chapter 459.
- B. Should be comparable to rates charged by other persons in other areas for similar services under similar service and regulatory conditions.

C. Shall be reasonable and uniform and shall be based on the level and type of service rendered.

D. May include uniform classes of rates based on the type of waste that is collected, transported, or disposed of; the type of material that is reused, recycled or resource-recovered; the number, type and location of customers served; and other relevant factors so that rates are reasonably based on the cost of the particular service.

E. Shall be based on the following relevant factors:

1. Changes in the cost of operations.
2. Current and projected revenues and expenses.
3. Cost of acquiring and replacing equipment.
4. Cost of providing for future, added or different service, or growth.
5. Value of owner's service and management.
6. A reasonable return to the franchisee based on gross franchised business.
7. Cost of meeting government regulations.
8. Net cost of providing the opportunity to recycle.
9. Cost of other resource recovery.
10. Research and development.
11. Capital, debt, and repayment requirements.
12. Long-haul to disposal or reload or transfer costs.
13. Disposal costs.
14. Uniform rates or rates by classes, volumes, type of wastes or zones.

F. Shall not apply to service that is provided by a franchisee at reduced cost for a civic, community, benevolent or charitable purpose. (Ord. 85-7-3 §17(4), 1985)

13.100.060 Rates for use of facilities operated by county. The county may establish rates for use of disposal sites or transfer stations that are operated by the county and fees for permits issued under subsection 13.52.030. Except for provisions that clearly are not relevant to county operations, the procedure set forth in this chapter shall be followed in establishing rates and permit fees that will be charged by the county. The administrator shall initiate any action that is taken by the county under this section. The term "rates" as used in this chapter shall be construed to include permit fees. (Ord. 85-7-3 §17(5), 1985; Ord. 88-11-1 §3 1988)

## Chapter 13.104

### SUSPENSION, MODIFICATION AND TERMINATION OF FRANCHISES

#### Sections:

- 13.104.010 Continuation of franchise.
- 13.104.020 Termination without cause.
- 13.104.030 Action for cause.
- 13.104.040 Conditional action.

13.104.050 Effective date of action.

13.104.010 Continuation of franchise. A franchise granted under this division shall continue in full force and effect until suspended, modified, or terminated in accordance with this chapter. (Ord. 85-7-3 §18(1), 1985)

13.104.020 Termination without cause. Any franchise may be terminated by the board without cause by written notice to the franchisee subject to the following restrictions:

A. Notice for termination of a collection franchise, a limited recycling collection franchise, a transfer station, or a permanent depot shall be given to the franchisee at least seven years before the termination date.

B. Notice for termination of a temporary depot shall be given to the franchisee at least one year before the termination date.

C. Notice for termination of a land disposal site franchise shall be given at least ten years before the termination date. (Ord. 85-7-3 §18(2), 1985)

13.104.030 Action for cause. Upon recommendation of the committee or upon its own motion the board may suspend, modify or terminate a franchise upon finding that the franchisee has:

A. Knowingly violated this division or provisions of ORS Chapter 459 or rules or regulations promulgated thereunder; or

B. Materially misrepresented facts or information given in the application for the franchise; or

C. Refused or neglected to provide adequate service in a defined service area or at the franchised disposal site after written notice and a reasonable opportunity to correct the deficiency; or

D. Knowingly violated the terms of the franchise agreement. (Ord. 85-7-3 §18(3), 1985)

13.104.040 Conditional action. In lieu of immediate suspension, modification, or termination of a franchise, the board may order compliance and make the suspension, modification, revocation or termination of a franchise contingent upon noncompliance with the order of the board within the period of time stated therein. (Ord. 85-7-3 §18(4), 1985)

13.104.050 Effective date of action. If the board suspends, modifies, or terminates the franchise, pursuant to Section 13.104.030, the action shall not become effective until thirty days after the date of the order unless the board finds that there is a serious and immediate danger to the public health or that a public nuisance would be created if the action is delayed. The holder of a franchise may request a public hearing before the board on the order by filing a written request for such hearing with the board within thirty days after the date of the order. Upon filing of request for hearing, the board shall set a time and place for a public hearing within thirty days of the request. Until the board makes a decision following the hearing, the initial decision to suspend, modify or terminate the franchise will be stayed unless the initial order provides otherwise. The franchisee and other interested persons or affected public agencies or public bodies may submit oral or

written evidence to the board relevant to the board's order. The board may, following the public hearing, affirm, amend or rescind its prior order and shall do so within thirty days of the public hearing. The determination of the board shall be final. (Ord. 85-7-3 §18(5), 1985)