

CHAPTER 50: SOLID WASTE

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GENERAL PROVISIONS

§ 50.001 TITLE.

This chapter shall be known as the “Solid Waste Management Ordinance” and may be so cited and pleaded and shall be cited herein as “this chapter.” (Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.002 PURPOSE AND POLICY.

To protect the health, safety and welfare of the people of the county and to coordinate handling and disposal of solid wastes, it is the public policy of the county to:

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

(B) Prohibit, and where found abate, accumulation of any solid waste that creates a public nuisance, a hazard to health or an unsightly condition.

(C) Develop a regional long-range plan for adequate disposal sites and facilities.

(D) Coordinate county-wide solid waste control with federal, state and local agencies responsible for preventing, controlling, or abating air, water or ground pollution.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.003 APPLICATION OF PROVISIONS; EXEMPTIONS.

(A) Except as provided in division (B) of this section, this chapter shall apply to all persons and all land within the county.

(B) Except as provided pursuant to § 50.030 of this chapter, this chapter shall not apply:

(1) Within the incorporated limits of any city;

(2) To federal or state agencies that collect, store, transport or dispose of wastes or solid wastes on federal or state land. This exemption shall not apply to disposal on a disposal site operated pursuant to a franchise under this chapter.

(3) As to terms or rates to be charged for the collection of wastes or solid wastes from any federal or state agency, or the collection of wastes or solid wastes from any contractor generated in the contractor's performance of services for any federal or state agency.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD. The Board of County Commissioners for Umatilla County.

COLLECTION VEHICLE. Any vehicle regularly used to collect or transport solid waste, or used for that purpose for compensation.

COMMITTEE. The Solid Waste Committee established by this chapter.

COMPENSATION. Any consideration in money, goods or services paid for service including, but not limited to, direct or indirect compensation by tenants, licensees, or similar persons.

COMPOSTING FACILITY. A site or facility which utilizes organic solid waste or mixed solid waste to produce a useful product through a managed process of controlled biological decomposition. Composting may include amendments beneficial to the composting process. Vermiculture, vermicomposting, and agricultural composting operations are considered composting facilities.

CONSTRUCTION AND DEMOLITION LANDFILL. A landfill which receives only construction and demolition waste.

DISPOSE or DISPOSAL. Accumulation,

storage, collection, transportation and final disposal of solid wastes.

DISPOSAL SITE. Land and facilities used for the disposal, handling, treatment or transfer of or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, land application units (except as exempted by OAR 340-093-0030(83)(b)), transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site; but the term does not include a facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste; a facility subject to the permit requirements of ORS 468B.050; a site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar non-decomposable material, unless the site is used by the public either directly or through a collection service; or a site operated by a wrecker issued a certificate under ORS 822.110.

FRANCHISE. Includes a franchise, certificate, contract or license issued by a local government unit authorizing a person to provide solid waste management services. (ORS 459.005). A franchise to provide service issued by the Board pursuant to §§ 50.020 to 50.058 of this chapter.

FRANCHISE, COLLECTION. A franchise to collect or transport solid waste.

FRANCHISE, DISPOSAL. A franchise to create, maintain or operate a disposal site, including a transfer station.

HAZARDOUS WASTE. The definition contained in ORS 466.005 shall apply to this chapter.

HEALTH OFFICER. The County Public Health Officer appointed under ORS 431.418.

INCINERATOR. A device used for the reduction of combustible solid wastes by burning under conditions of controlled air flow and temperature.

INDUSTRIAL WASTE LANDFILL. A landfill which receives only a specific type or combination of industrial waste.

INFECTIOUS WASTE. Biological waste, including medical waste, is described as:

(1) Blood and blood products, excretions, exudates, secretions, suctionings and other body fluids that cannot be directly discarded into a municipal sewer system, including solid or liquid waste from renal dialysis and waste materials reasonably contaminated with blood or body fluids;

(2) Cultures and stocks of etiologic agents and associated biologicals, including specimen cultures and disks and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals and serums and discarded live and attenuated vaccines; but does not include throat and urine cultures;

(3) Sharps that have been removed from their original sterile containers, including needles, I.V. tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes;

(4) Pathological waste, including biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research, the bedding of the animals and other waste from such animals. Pathological waste does not include formaldehyde, other preservative agents, or hazardous waste.

LANDFILL. A facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.

MATERIAL RECOVERY FACILITY. A solid waste management facility which separates materials for the purpose of recycling from an incoming mixed solid waste stream by using manual and/or mechanical methods, or a facility at which previously separated recyclables are collected.

MUNICIPAL SOLID WASTE LANDFILL. A discrete area of land or an excavation that receives domestic solid waste, and that is not a land application

unit, surface impoundment, injection well, or waste pile, as those terms are defined under § 257.2 of 40 CFR, Part 257. It may also receive other types of wastes such as nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction and demolition waste and industrial solid waste.

PERSON. Any person, natural or otherwise, including an individual, corporation, association, firm, partnership or joint stock company.

PUTRESCIBLE WASTE. Organic materials that can decompose, and may give rise to foul smelling products, or create a health hazard, or which are capable of attracting or providing food for potential disease carriers such as birds, rodents, flies and other vectors.

RECYCLING. The process by which waste materials are transformed into new products in such a manner that the original products lose their identity. It shall, also, include the collection, transportation or storage of products by other than the original user or consumer giving rise to the product being in the stream of commerce for collection, disposal, recycling, resource recovery or utilization.

REGULATIONS. Regulations promulgated by the Board pursuant to this chapter.

RESOURCE RECOVERY. Means any process of obtaining from solid waste and waste, materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose.

RULES. Rules promulgated by state agencies pursuant to ORS Chapter 459.

SANITARY LANDFILL. A disposal site operated by means of compacting and covering solid waste at least once each business day in compliance with applicable Oregon Administrative Rules.

SERVICE. The collection, transportation or disposal of solid waste for compensation.

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

SOLID WASTE. All putrescible and non-putrescible wastes, whether in solid or in liquid form, except liquid-carried industrial wastes or sewage hauled as an incidental part of a septic tank or cesspool cleaning service, but including garbage, rubbish, ashes, sewage sludge, street refuse, industrial wastes, swill, demolition and construction wastes, inoperable or unlicensed vehicles stored on the site for a period in excess of 90 days, or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, dead animals, infectious waste and other discarded solid materials. In the event a citation or warning has been issued on the property, the time period for any new inoperable or unlicensed vehicles does not apply.

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

TRANSFER STATION. A fixed or mobile facility other than a collection vehicle where solid waste is taken from a smaller collection vehicle and placed in a larger transportation unit for transport to a final disposal location.

UTILIZE, UTILIZATION, UTILIZATION OF SOLID WASTE or WASTE. Productive use through recycling, reuse, salvage, resource recovery, energy recovery, or landfilling for reclamation, habitation, or rehabilitation of land.

WASTE. Putrescible and non-putrescible waste, hazardous waste, infectious waste, solid waste, and any other matter or material that is: (1) hazardous to the health and safety of the public; (2) annoying, offensive or unsightly; (3) inconsistent with the zoning and dominant characteristics of the neighborhood; or (4) without substantial economic value or functional use.

WOOD WASTE LANDFILL. A landfill which receives primarily wood waste. (Ord. 90-07, passed 4-18-90; Ord. passed 11-24-93; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005; Ord. 2007-05, passed 4-4-2007)

§ 50.005 ACCUMULATION, STOCKPILING, AND DUMPING PROHIBITED; EXEMPTION.

(A) Stockpiling prohibited. No person shall deposit, accumulate, store, maintain, or display waste on any property in Umatilla County, except as specifically permitted by this chapter, or as authorized under a franchise issued pursuant to §§ 50.020 through 50.058. Violation of this prohibition may be enforced or abated as provided in §§ 50.103, 50.104 and 50.106 through 50.118.

(B) Illegal disposal prohibited. No person shall dispose of waste in Umatilla County, except for solid waste at a disposal site operated under a franchise issued pursuant to §§ 50.020 through 50.058, or as otherwise authorized by state law.

(C) No owner or occupant of any land in Umatilla County shall authorize, permit or suffer violation of any provision of this chapter.

(D) Exemptions. The prohibitions of this chapter do not apply to the following:

(1) The temporary accumulation of limited quantities of waste in standard garbage or recycling collection receptacles provided for that purpose and pending disposal or recycling in a legal manner, provided that the waste does not create offensive odors, unsightly conditions, or hazards to health.

(2) The accumulation and distribution of compost, silage, or livestock manure in conjunction with normal produce, crop, or animal husbandry activities, so long as it does not physically encroach upon the land of another, is exempted from obtaining a solid waste permit from the Department of Environmental Quality because it meets exemption criteria set forth in OAR 340-093-0050(3)(d), and is conducted in a reasonable manner so as to minimize any offensive odor, unsightly condition, or hazard to health.

(3) It shall be a question of law whether the above exemptions apply to a particular case and whether the provisions of this chapter have been complied with. In making this determination, the trier of law shall consider community standards and practices, all the provisions of the ordinances of Umatilla County, state law and the circumstances of

each case.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.006 TAMPERING WITH CONTAINERS.

(A) No person, other than the person producing the material contained therein, or any officer, employee or permittee of the county, or an employee of a franchise, shall interfere with any sold waste container, or remove any such container or its contents from the location where the same has been placed by the person producing the contents of said container.

(B) No person, other than the person producing the materials contained therein, or an officer, employee or permittee of the county, or an employee of a franchisee, shall remove the lid from any solid waste container, nor shall any such person collect, molest or scatter solid waste stored in such container, or deposit solid waste into such container.

(C) Any person or entity may bring a civil action for violation of §50.025 by seeking injunctive relief or actual or nominal damages in circuit court. Any such person who prevails under this section shall be entitled to recover reasonable costs and attorney's fees, including those on appeal.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.007 COMPOSITION AND PLACEMENT OF CONTAINERS.

No commercial recycling container shall be constructed of materials other than those approved by the local Fire Marshal nor shall the container be placed in a location that violates the local Fire Code.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

FRANCHISES

§ 50.020 FRANCHISES REQUIRED.

(A) No person shall store, collect, transport or dispose of any solid waste for compensation except as authorized by a franchise issued under this subchapter,

and more specifically explained in §§ 50.040 through 50.043.

(B) No person shall create, maintain, or permit to be maintained, a disposal site, except as authorized by a franchise issued under this subchapter, and more specifically explained in §§ 50.055 through 50.058. (Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.021 APPLICATION; FEE.

(A) Any person wishing to store, collect, transport or dispose of any solid waste, for compensation, may apply to the Board, through the Solid Waste Committee, for a franchise. An applicant shall apply on forms provided for that purpose by the Committee. The Committee may require any applicant to provide any information it reasonably deems necessary to effect the purposes of this chapter. Any applicant refusing to furnish such information, whether requested on an application form or by special written request from the Committee, shall be denied a franchise.

(B) The Committee shall charge an application fee, not to exceed \$250 for a collection franchise, and \$125 for a disposal site franchise, to cover processing the application. The Committee shall require at least enough information to determine compliance with this chapter and regulations adopted thereunder, and with requirements of any federal, state or local agency having jurisdiction, including, but not limited to, the Environmental Quality Commission, State Board of Health, and State Highway Department.

(C) The Committee may delegate and supervise coordination of the application process. (Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.022 EMERGENCY TEMPORARY FRANCHISES.

Whenever the Board finds that collection or disposal service is needed before a franchise application can be completely processed, it may issue a temporary certificate, valid for a stated period not to exceed six months, authorizing a person to serve a

defined service area, or specified customers. (Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.023 TRANSFER OF FRANCHISES.

(A) No franchisee shall transfer its franchise, or any part thereof, to any other person without the written consent of the Board.

(B) Before approving any such transfer, the Board shall require the proposed transferee to apply as provided in §§ 50.041 or 50.056, and to qualify under §§ 50.042 or 50.057. The failure of the Board to disapprove a proposed transfer within 90 days of written notice thereof shall be deemed approval, unless the Board expressly finds a substantial question of public health or safety exists and orders an extension of time for its consideration. Thereafter, failure to disapprove by the date of any extensions shall be deemed approval. (Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.024 ENFORCEMENT OF FRANCHISE PROVISIONS.

(A) Investigation by Code Enforcement Officer.

(1) The Board or the Committee may at any time direct the Code Enforcement Officer to investigate whether there is cause to suspend, modify, revoke or refuse to renew a franchise. The Code Enforcement Officer shall then investigate as the Officer deems appropriate.

(2) If after investigation the Code Enforcement Officer believes a franchisee had violated this chapter, ORS Chapter 459, or the rules or regulations adopted under either, the officer shall notify the Committee and the franchisee, in writing, of the alleged violation, and of the action the officer believes necessary to cure or rectify the violation.

(B) *Hearing before Committee.* The Committee shall as soon as is practicable, hold a hearing to determine whether a violation has been or is being committed, and what action may be required by the franchisee to cure such violation. If the Committee

finds a violation, and further finds the franchisee cannot or will not cure it, the Committee may recommend to the Board that the franchise be suspended, modified, revoked, or not renewed.

(C) *Action by Board.*

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

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

(b) Materially misrepresented any fact given in the application for the franchise; or

(c) Willfully refused to provide adequate service in its defined area or at its franchised disposal site after being given written notice and a reasonable opportunity to do so.

(2) In lieu of immediate suspension, modification, revocation or refusal to renew a franchise, the Board may order compliance by a stated date, and make the suspension, modification, revocation or refusal to renew a franchise contingent upon compliance with such order.

(3) (a) If the Board suspends, modifies, revokes or refuses to renew a franchise, the action shall not become effective until 30 days after the date of the order, or, when the franchisee requests a hearing, until after the hearing, unless the Board finds a serious and immediate danger to the public health, or a public nuisance, exists or would exist unless action is taken sooner.

(b) A franchisee may, within 30 days of any order entered under this section, in writing, request a hearing before the Board. Within 30 days of receiving such request, the Board shall hold a public hearing upon the proposed order. At said hearing, the franchisee, Health Officer, and any other interested person or agency may submit evidence relevant to the proposed order. The franchisee shall have the right to examine any witness, and to rebut any evidence offered at the hearing.

(c) Thereafter the Board may affirm, amend or rescind its prior order. Subject to provisions of § 50.105, the determination of the Board after conclusion of said public hearing shall be final. (Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.025 PREVENTING INTERRUPTION OF SERVICE.

(A) *Agreement of franchisees.* Every franchisee agrees, by accepting or retaining a franchise, to the terms of this section.

(B) *Power of Board to order emergency service.* Whenever the Board reasonably finds a failure of service has occurred, or is about to occur, which does or would create a health hazard or a public or private nuisance, the Board may authorize, by order, another person to provide such service, and to use or operate the land, facilities or equipment of the franchisee, until the franchisee is willing and able to provide said service, or until the health hazard or nuisance abates.

(C) *Restrictions on power.* This power shall be subject to the following provisions and restrictions:

(1) No service or operation shall be authorized under this section without giving any franchisee to be affected at least 24 hours notice thereof.

(2) A franchisee to be affected by an order under this section may request a public hearing, and where such request is made, no such order shall be implemented until a public hearing is concluded. At such hearing the franchisee, and any other interested person may present evidence, and the franchisee may examine any witness, or rebut any evidence offered by another.

(3) When the Board authorizes another person to use or operate the franchisee's land, facilities or equipment, the Board shall require that the franchisee be paid a reasonable sum for said use or operation, upon such terms as the Board reasonably finds equitable and franchisee shall be held harmless from liability for the actions of the operator appointed. Franchisee shall be reasonably compensated for the use of its facilities and equipment. Any temporary

operator shall provide replacement value insurance coverage for all of franchisee's lands, facilities and equipment.

(4) Service may be authorized under this section to any customer, or group or class of customers. Such authorization shall be terminated by the Board upon its receiving a reasonable showing from the franchisee that the franchisee will itself forthwith resume said service.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.026 APPEALS TO THE BOARD.

(A) *Scope of appeal.* Any action of the Code Enforcement Officer, county authority, or the Committee under this chapter (excepting §§50.005, 50.100 to 50.118), or any order of the Board may be appealed as provided in this section.

(B) *Notice of appeal.* Any person aggrieved by an action or order described in division (A) of this section may request a public hearing thereon within 30 days after such action or order, and not otherwise.

(C) *Procedure upon appeal.* Upon receipt of timely notice, the Board shall within 30 days hold a public hearing upon the action or order complained about. The person requesting the hearing, the Code Enforcement Officer, and any other interested person or agency may present evidence, and may present questions to each other's witnesses through the Board. Thereafter the Board may affirm, modify or rescind its prior order, or approve or reverse any action of the Code Enforcement Officer or Committee.

(D) *Suspension of effectiveness pending appeal.* Unless the Board expressly finds a delay in the effective date of an action or order described in this section would create an immediate and serious danger to the public, or a public nuisance, no action or order appealed under this section shall take effect until conclusion of said appeal.

(E) *Finality.* Subject to § 50.105, any determination by the Board under this section shall be final. When the Board finally rejects all or part of a franchise application, the applicant may not reapply for the same service or part thereof, or for the same

disposal site, for one year unless expressly permitted by the Board. The Board shall permit an early reapplication only upon finding the public interest will be served thereby.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.027 FRANCHISE TERMS AND RENEWAL.

(A) *Terms.*

(1) A collection franchise shall be for a 10 year term.

(2) A disposal franchise shall be for a 10 year term.

(B) *Renewal.* All franchises shall be reviewed annually and shall be extended one year unless problems with the operation of the franchise are revealed upon review, or unless grounds exist under § 50.024 for refusal. The required certificate of insurance shall be provided by the franchise-holder at the time of the annual review. Any changes in operation must also be reported by the franchise-holder at that time.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.028 FRANCHISE FEES.

(A) *Amount of fee.*

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

(a) Any collection franchise, an annual fee equal to a percentage of the gross cash receipts from collection service provided to the service area included in the franchise as specifically set forth in division (A)(2)(a) of this section.

(b) Any disposal franchise, an annual fee in an amount to be established by Board order and as specifically set forth in division (A)(2)(b) of this section.

(2) The following fees are established for

solid waste collection and disposal franchises:

(a) The annual fee for a collection franchise shall be 2% of the gross cash receipts from collection service provided to the service area included in the franchise.

(b) The annual fee for a disposal franchise shall be \$100.

(B) *Computation and payment of collection franchise fee.* Collection franchise fees shall be computed each March 31 upon the previous calendar year's gross receipts. The fee shall be payable in four equal quarterly installments, the first to be paid not later than April 30, and the remaining not later than 30 days after the end of each calendar quarter thereafter.

(C) *Use of franchise fees.* Fees collected pursuant to division (A) of this section shall be paid into the General Fund of the county. The Committee may recommend to the Board ways to use such funds to carry out the provisions of § 50.002 of this chapter.

(D) *Annual collection fees.* The Board may exercise its rights under § 50.070(J) in determining annual collection fees.

(E) *Other fees.* Any fees required to be established herein shall be set by Board Order. (Ord. 90-07, passed 4-18-90; Am. Order 1, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.029 RIGHTS OF OPERATORS WHEN ORDINANCE ADOPTED.

Any person providing disposal or collection service when this chapter becomes effective may continue service under an existing franchise according to the terms and requirements of this chapter. (Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.030 AGREEMENTS FOR JOINT FRANCHISING AND ALLOCATION OF FRANCHISE FEES.

(A) The Board may contract with any city or county for joint or regional franchising of collection or

disposal service.

(B) The Board may contract with any city or county to fairly allocate franchise fees to both, where a franchise service area crosses city or county boundaries.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

COLLECTION FRANCHISES

§ 50.040 RIGHTS OF PRESENT OPERATORS.

Any person providing collection service on the effective date of this chapter shall continue to operate according to the requirements contained herein.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.041 REQUIREMENTS FOR COLLECTION FRANCHISE.

Any applicant for a collection franchise, or for renewal thereof, shall show to the reasonable satisfaction of the Board as follows:

(A) *Service area.* The applicant shall show:

(1) That the defined service area has not been franchised to another person; or

(2) That the defined service area is not being presently served by the holder of a franchise therefor pursuant to any schedule established as part of the franchise; or

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

(B) *Ability to provide service.* The applicant shall show adequate service to the area to be served. Applicant shall:

(1) Provide a sufficient amount of collection vehicles, equipment, facilities and personnel sufficient to meet the standards of this chapter and ORS Chapter

459 and rules and regulations adopted thereunder. If the applicant proposes to replace another franchisee, in whole or in part, it shall be able, on the first day of the proposed franchise term, to provide service at least equal to that presently being provided.

(2) Have equipment constructed and operated so as to prevent the contents thereof from escaping onto public highways.

(3) Demonstrate qualifications, experience, and ability to safely handle any solid or hazardous waste as may be necessary or to direct others that are qualified to do so.

(4) Use permitted and regulatory compliant disposal sites and shall list such sites in the application.

(5) Maintain a public liability insurance in an amount of not less than that required under the current Oregon Tort Claims Act (ORS 30.270) and shall present an "Evidence of Insurance" certificate showing the county as coinsured.

(C) *Compliance.* The applicant shall give assurance, satisfactory to the Board, that he will comply with the terms of this chapter, regulations adopted thereunder, and requirements of any federal, state or local agency with relevant jurisdiction.

(D) *County to be held harmless.* The franchiseholder, by the award and acceptance of a franchise, agrees to hold county harmless and to defend county against any claims filed against it because of the actions of the franchise-holder. (Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.042 APPROVAL PROCEDURE; ISSUANCE OF COLLECTION FRANCHISE.

(A) *Processing of application.* An application for a collection franchise or franchise renewal shall be processed as follows:

(1) The Committee or its delegate shall review the application, and investigate, as appropriate, the applicant's qualifications and the need for the

proposed service. The Committee shall notify, in writing, any person holding a franchise for any part of the area the applicant proposes to serve.

(2) Within 45 days the Committee shall consider the application, in a regular meeting, or in a special meeting called for that purpose. The applicant may there present evidence; any franchisee requiring notice under this section may do likewise. The Committee may request more information or further investigation, as it deems necessary.

(3) Within 60 days of its first meeting to hear the application, the Committee shall recommend to the Board that it grant, deny, or modify the proposed franchise.

(4) Within 30 days of the Committee's report, the Board shall by order grant, deny, or modify and grant as modified, the proposed franchise.

(B) *Basis for approval of application.* The Committee shall recommend to the Board, and the Board shall decide whether or not to grant or renew a franchise, upon the following criteria:

(1) The experience of the applicant in providing the type of service proposed.

(2) The adequacy of the applicant's showing under § 50.041 of this chapter.

(3) The public convenience and necessity of the proposed service.

(C) *Bond.* The Board may require any applicant to submit a performance bond, in an amount not to exceed \$10,000, guaranteeing performance under any franchise granted the applicant, and compliance with this chapter and applicable federal, state and local laws, rules or regulations.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.043 OPERATION UNDER COLLECTION FRANCHISE.

(A) *Starting service.*

(1) A collection franchisee shall commence

service to its service area, as required by its franchise, no later than one month after receiving the franchise, unless the Board by order extends said time. The Board may so extend said time for reasonable cause shown by the franchisee for a time not to exceed 60 days.

(2) If the franchisee fails to commence service by the time set, including any extensions thereof, the Board may summarily cancel its franchise.

(B) *Maintaining service.*

(1) A franchisee shall serve the area as required by its franchise without interruption except as may be reasonably caused by weather, acts of God, strikes or other labor disputes, acts of war, or public insurrection.

(2) (a) A franchisee shall not voluntarily discontinue service to any part of its service area, or to any customer, except for failure to pay for service, without giving 30 days notice of the proposed cut-back in service to the Committee, and to every customer who would receive less service due to the cut-back.

(b) Upon written request of the Code Enforcement Officer, or any affected customers, the Committee shall convene a public hearing on the proposed cutback, no later than 21 days after it receives the request.

(c) At the hearing the franchisee, Code Enforcement Officer, any customer, or any resident, or person owning land, within the franchisee's affected service area, may appear. The franchisee shall report, at said hearing, on the proposed cut-back. The Committee shall then recommend to the Board that it permit, or deny, the proposed cut-back. Within 10 days after receiving the Committee's recommendation, the Board shall permit or deny the cut-back. When a hearing is requested, the franchisee shall not discontinue service as proposed until permitted by the Board. In the absence of a request for a hearing, the franchisee may, upon expiration of the aforesaid 30 days, discontinue service as described in its notice.

(3) A franchisee may refuse to serve any customer who refuses to pay for service according to the rate set by the Board under this chapter. A

franchisee may require any customer whose service was suspended for not paying the service bill to deposit a reasonable sum, not to exceed the cost of 12 months minimum service, before renewing the service.

(4) Provide the opportunity to recycle in accordance with ORS Chapter 459 and the rules and regulations promulgated thereunder.

(5) Nothing in this division shall apply to any order for a change, curtailment, or termination of service issued by any public agency or court having jurisdiction.

(C) *Right to sub-contract service.* A franchisee may enter into an informal agreement with another franchisee at any time to provide collection services within the other's franchise area. Such agreements between franchisees shall not be subject to the review requirements of this division. A collection franchisee may contract with another person (other than a current franchisee) to provide service within the franchisee's service area upon reasonably showing to the Committee that:

(1) Such contract will not jeopardize quality or extent of service;

(2) Such person is a fit person to perform service under the criteria set by this chapter for a collection franchisee;

(3) (a) Such contract does not in any way limit the franchisee's primary responsibility to provide service, and provides that the franchisee may resume the service described in the contract at any time the Committee reasonably finds the service contracted for is inadequately performed.

(b) All contracts with non-franchisees must be in writing and approved by the Committee.

(c) If the Committee disapproves any such contract the franchisee may appeal to the Board as provided in §50.026. If the Committee approves, any affected customer may appeal in the same manner.

(D) *Exclusive or joint service.* Wherever the Board finds that a single applicant can adequately serve a defined service area it shall issue an exclusive franchise for that area to such an applicant. If the

Board finds a single applicant or franchisee cannot provide needed service to a customer, type or group of customers, it may upon recommendation of the Committee issue a franchise for an applicant to serve the area jointly with another person. If a franchisee cannot handle particular types or unusual quantities of solid waste, the Board may franchise another person to serve only those customers producing such types or quantities.

(E) *Right to refuse service.*

(1) A franchisee may refuse to serve a customer where:

(a) The customer has not provided adequate solid waste containers, as defined in Oregon Administrative Rules 340-61-070(2);

(b) The customer has not provided access to the solid waste containers without unreasonable hazard to the person giving service; or

(c) Weather conditions temporarily make service hazardous; or

(d) Service would endanger the driver of the collection vehicle or the motoring public.

(2) A franchisee shall immediately notify the Committee of any service refused under this division, and the reasons therefore. The Committee may approve or disapprove the refusal. If the Committee disapproves, the franchisee must comply with the Committee's order, or appeal to the Board as provided in § 50.026. If the Committee approves, the affected customer may appeal in the same manner. (Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

DISPOSAL FRANCHISES

§ 50.055 RIGHTS OF PRESENT OPERATORS.

Any person operating a disposal site on the effective date of this chapter shall continue to operate according to applicable state, federal and local laws, as well as the requirements contained in this chapter.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-02, passed 1-5-2005)

§ 50.056 REQUIREMENTS FOR DISPOSAL SITE FRANCHISE.

An applicant for a disposal site franchise shall show to the reasonable satisfaction of the Board as follows:

(A) *Location and service area.* The applicant shall show that the size and location of the proposed disposal site is suited geographically and topographically to the proposed service.

(B) *Ability to provide service.* An applicant shall:

(1) Specify the type of disposal site and the disposal method to be used. Applicant shall specify what waste will be accepted, or rejected, at the site, and shall propose special regulations to amend this subchapter necessary for operating, the facility including, but not limited to, the handling of any hazardous waste

(2) Show available equipment, facilities and personnel sufficient to comply with this chapter, ORS Chapter 459, and the rules and regulations thereunder, and has insurance equal to that required by §50.041(B)(5) of this chapter.

(3) Reasonably satisfy the Board of compliance with relevant federal, state, or local laws, ordinances, rules and regulations.

(C) *County to be held harmless.* Franchise-holder, by award and acceptance of franchise, agrees to hold county harmless and to defend county against any claims filed against it because of the actions of the franchise-holder.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.057 APPROVAL PROCEDURE; ISSUANCE OF DISPOSAL FRANCHISE.

(A) *Processing of application.* An application for a disposal site franchise or renewal thereof shall be processed as provided for collection franchises in

§ 50.042(A), provided that where a franchise might affect the operation of, or any land regulated by, any ordinance administered by the County Planning Commission, the Board shall require an investigation from and recommendation by said Commission before acting on the application.

(B) *Basis for approval of application.* The Committee shall recommend to the Board, and the Board shall decide whether or not to grant or renew a disposal site franchise, upon the following criteria:

(1) The experience of the applicant in providing the type of service proposed.

(2) The adequacy of the applicant's showing under § 50.055 of this chapter.

(3) The public convenience and necessity of the proposed service. In assessing the public convenience and necessity, the Committee and the Board shall consider, among other factors as they deem appropriate, whether:

(a) Additional disposal site service is in the area;

(b) Additional service would harm any other disposal franchise in the area; and

(c) The proposed service is economically feasible.

(C) *Conditions upon franchise.* In granting a disposal franchise the Board shall consider, and where appropriate, may include as restrictions or requirements of the franchise, as follows:

(1) Whether the site shall be open to the public, and if so, under what conditions.

(2) What if any types of waste (including hazardous waste) shall be excluded from the site.

(3) Whether operation of the site shall be integrated with that of any existing site.

(4) Whether any barriers or other protective devices should be constructed on the site to protect adjacent property.

(5) Any other restrictions or requirements necessary to reduce or avoid other impacts, including, but not limited to, wetlands, habitat and natural areas, vibrations, landscaping and site design, historic resources, signage, outdoor storage, litter, vectors, fire protection, traffic, flood plain considerations, noise, ground and surface water, methane gas, and air quality.

(D) *Insurance.* Franchisee shall at all times maintain public liability insurance in an amount not less than that required under the Oregon Tort Claims Act (ORS 30.270) and shall present an "Evidence of Insurance" certificate showing the county as co-insured.

(E) *Application of other ordinances.* In granting any disposal franchise the Board shall be bound by and comply with any ordinance administered by the County Planning Commission. No franchise shall be granted the operation of which would create a violation of said ordinances.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.058 OPERATION UNDER DISPOSAL FRANCHISE.

(A) *Starting service.* The obligation of a disposal franchise to start service shall be as provided in § 50.043(A) for a collection franchise.

(B) *Maintaining service.* A disposal franchisee shall provide service to its area as required by the franchise without interruption except as may be reasonably caused by weather, acts of God, strikes or other labor disputes, acts of war, or public insurrection.

(C) *Discontinuing service.*

(1) (a) A disposal franchisee shall not voluntarily discontinue service to any customer required to be served under its franchise, except for failure to pay for service, without giving 90 days notice of the proposed discontinuance to the Board, to any customer within its service area, and to any collection franchisee using its site. The franchisee shall further not discontinue said service until the Board approves the same, in writing.

(b) If the Board receives a written objection to any such proposed discontinuance of service, it shall call a public hearing before approving or disapproving the discontinuance. At said hearing the franchisee, any customer, and the Health Officer may present evidence, and may present questions for any witnesses to the Board or rebut any evidence presented.

(2) A franchisee may refuse to serve any customer who refuses to pay for service according to the rate set by the Board under this chapter. A franchisee may require any customer whose service was suspended for not paying the service bill to pay the balance due in full, including any service and collection charges due, before resumption of service.

(3) Nothing in this section shall apply to any order for a change, curtailment or termination of service issued by any public agency or court having jurisdiction.
(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

RATES AND CHARGES

§ 50.070 DETERMINATION OF RATES.

(A) *Board to set rates.* The Board by order shall establish rates to be charged by a franchisee for its service. No franchisee shall charge for any service other than at a rate established pursuant to this chapter.

(B) *Uniform rates.* Upon recommendation of the Committee the Board may establish uniform rates throughout the county, or may establish uniform rates within zones based upon the length of haul or other factors which may, in the reasonable judgment of the Board, justify establishment of rate differentials.

(C) *Use of existing rates.* Upon recommendation of the Committee, the Board may approve and establish existing rates as filed by applicants for franchises if it finds that such rates are not demonstratively unreasonable and are not substantially higher than those charged generally in the county under similar service requirements for the

same or similar quality of service. In determining whether rates are reasonable under this division, the Board shall give due consideration to the rate guidelines established by this section.

(D) *General principles in determining rates.*

(1) In determining rates or rate changes, the Board shall consider:

(a) The franchisee's investment in land, facilities and equipment;

(b) The cost of management;

(c) Local wage scales;

(d) Density of population, or concentration of customers, in the area served;

(e) Methods of disposal required to adequately serve the franchise area, and the reasonable cost thereof;

(f) Any extra cost generated by solid waste requiring special handling, including, but not limited to, hazardous waste, infectious waste or waste with especially offensive odors;

(g) Future service demands which a franchisee must anticipate, and provide for with added equipment, facilities, personnel or land;

(h) Any extra cost for service on days or times where service is not normally provided;

(i) Rates charged for similar services in other areas within or without the county;

(j) The cost of providing the opportunity to recycle under ORS 459A.085(8).

(k) A reasonable return on investment to the owners of the franchise, and such other factors as reasonably appear appropriate to the Board.

(2) In setting or changing any rate, the Board shall find a rate fair and reasonable to customers, and sufficient to support adequate service to the public.

(E) *Guidelines for collection franchise rates.* In addition to those guidelines in division (D) of this section, the Board shall consider, in setting rates for a collection service, the following:

- (1) The length of haul to disposal sites; and
- (2) Wear and tear on equipment caused by steep or rough terrain, or unimproved roads.

(F) *Guidelines for disposal franchise rates.* In addition to those guidelines in division (D) of this section, the Board shall consider, in setting rates for a disposal service, the following:

- (1) Whether or not the site is open to the public;
- (2) Any unusual costs which may be incurred due to the geography or topography of the site;
- (3) The type of solid waste to be disposed of at the site; and
- (4) The cost of complying with federal, state or local laws, ordinances, rules, or regulations.

(G) *Procedure for setting rates.* Rates to be established or changed under this chapter shall be processed as follows:

- (1) The franchisee shall propose, in writing to the Committee, a rate, schedule of rates, or change in a rate or schedule of rates.
- (2) The Committee shall cause to be published in a paper of general circulation in the service area to be affected, and in three prominent places in said area, the rate or schedule as proposed, and a statement as to whether it would increase or decrease the present rate. The notice shall invite remonstrances to be filed in writing with the Committee within two weeks of the publishing of notice.
- (3) If there are no remonstrances timely filed, the Committee shall forthwith recommend to the Board that it establish, modify and establish as modified, or deny the proposed rate schedule.

(4) (a) If there are remonstrances the Committee shall, within 30 days of the publishing of notice, hold a public hearing on the proposed rate or schedule.

(b) At the hearing the franchisee, the Health Officer, and any interested person may present evidence, and the Committee may require the franchisee to produce such information as the Committee reasonably finds appropriate. Thereafter the Committee shall, within seven days of the hearing or any continuance thereof, recommend to the Board that it establish, modify and establish as modified, or deny the proposed rate or schedule.

(5) Within 14 days of receiving the Committee's recommendations, the Board shall by order establish, modify and establish as modified, or deny the proposed rate or schedule of rates.

(H) *Changes in established rates.*

(1) No franchisee shall change any rate set by the Board under this section without obtaining a new rate from the Board.

(2) The Committee shall recommend, and Board shall approve, no change in an established rate or schedule of rates except upon a finding that it is justified due to a reasonable change in the franchisee's cost of doing business, or due to added, better or more comprehensive service.

(I) *Temporary rates.* Where no rate has been established for a particular type of service, the Committee may establish an interim rate to be effective until the Board finally establishes the rate for that type of service. In establishing such a rate, the Committee shall consider all of the guidelines set forth in this section.

(J) *Right to examine records.* Every franchisee agrees, by accepting or retaining a franchise, to provide the Committee or the Board any information on its finances as are reasonably requested. Every franchisee further agrees to permit the Board or its representative to inspect its financial records at any reasonable time. Failure to abide by this agreement shall be grounds for revoking a franchise. (Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.071 RATE PREFERENCES PROHIBITED.

(A) *No preferences.* No franchise holder subject to rate regulation under this chapter shall give any rate preference to any person, locality, or type of solid waste stored, collected, transported or disposed of. However, a disposal site franchise holder receiving solid waste at a disposal site, may charge solid waste collection franchise holders a wholesale rate which is less than a retail rate which is to be charged to non-franchise holders, provided said rates are approved by the Board.

(B) *Standard class rates.* Nothing in this section is intended to prevent:

(1) The reasonable establishment of uniform classes of rates based upon length of haul, type of solid waste stored, collected, transported or disposed of, or the number, type, and location of customers served, when such rates are reasonably based upon cost of the particular service and are approved by the Board in the same manner as other rates;

(2) Any franchisee from volunteering service at reduced cost for a charitable, community, civic or benevolent purpose.
(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.072 RESPONSIBILITY FOR PAYMENT OF CHARGES FOR SERVICE.

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 those premises if the tenant fails to pay.
(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

SOLID WASTE COMMITTEE

§ 50.085 CREATION OF SOLID WASTE COMMITTEE; MEMBERSHIP.

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

(1) Voting members:

(a) The Health Officer or chosen representative.

(b) A member of the Planning Commission.

(c) A member of the Board of Trustees of the Umatilla Federated Tribes.

(d) Three members of the general public.

(e) One holder of a franchise.

(2) Ex officio members without vote who shall serve at their own pleasure:

(a) One representative of each City Council.

(b) Representative of the U.S. Forest Service.

(c) County Extension Agent.

(d) Representative of State Parks.

(e) Representative of State Forestry.

(3) As advisors to the Committee:

(a) County Legal Counsel.

(b) Enforcement Officer.

(B) The Board may from time to time designate other ex officio members or advisors to the Committee by Board Order.
(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.086 APPOINTMENTS OF SOLID WASTE COMMITTEE.

(A) (1) The Health Officer or representative

shall serve during tenure in office. The Board shall appoint all other voting members, who shall, after their initial term, serve for three years or until their successors are appointed and qualify.

(2) The initial terms of said voting members shall be as follows:

(a) The member of the Planning Commission and one member of the general public, for one year;

(b) The franchisee, and one member of the general public, for two years;

(c) The tribal representative, and one member of the general public, for three years.

(3) Vacancies shall be filled by the Board for the balance of the unexpired term.

(B) The Board shall appoint one of the Committee members as Chairman and another as Vice-Chairman, both of whom shall serve at the pleasure of the Board. A majority of the Committee shall constitute a quorum for the transaction of business. The Committee shall meet once each calendar quarter. The Board, the Chairman or any three members of the Committee may call a special meeting at any time by giving 10 days notice to other members of the Committee. Members may waive such notice by written waiver; members attending any special meeting shall be deemed to have waived notice of that meeting.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.087 DUTIES.

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

(A) Develop a long-range plan to provide adequate disposal sites and facilities throughout the county, and wherever feasible, in cooperation with other counties or agencies, throughout the surrounding region. The Committee shall consult with the County Public Works Director and Planning Director, and as far as possible, with other counties and affected public agencies or private persons in forming the plan. The

Committee shall submit an initial plan to the Board within two years of its first regular meeting. Thereafter the Committee shall review the plan every five years, and recommend to the Board any changes to the plan the Committee finds expedient. The plan shall include, but not be limited to, minimum standards for location and operation of disposal site and for protection of land and the occupants thereof adjacent to or near said sites.

(B) Review this chapter every five years along with the review of the Solid Waste Management Plan, and the operation and enforcement thereof, and recommend to the Board any changes to this chapter or to regulations promulgated thereunder which appear expedient.

(C) Annually report to the Board upon the activity of the Committee.

(D) Perform such other acts or duties as directed by the Board or established by other ordinances, or as may be necessary, proper or desirable to carry out effectively the functions and duties of the Committee. (Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99; Ord. 2005-01, passed 1-5-2005)

§ 50.088 REGIONAL SOLID WASTE COMMITTEE.

The Board may appoint any member of the Committee to any regional committee created pursuant to any agreement formed under § 50.030(A) of this chapter.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

ADMINISTRATION AND ENFORCEMENT

§ 50.100 IMPLEMENTING REGULATIONS.

The Board may adopt reasonable regulations implementing this chapter as may from time to time be required.

(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.101 REGULATION OF DISPOSAL SITES; DEQ REQUIREMENTS.

The Board shall regulate the operation and maintenance of disposal sites, by regulations supplemental to requirements of the DEQ, as authorized by ORS 459.105, whenever necessary to meet special local conditions.
(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.102 ADMINISTERING AND ENFORCING AGENTS.

The Solid Waste Committee, with the cooperation of the County Health Officer and the County Enforcement Officer, shall administer and enforce this chapter.
(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.103 ENFORCEMENT OF PROVISIONS.

(A) *Illegal dumping and stockpiling violations.* The provisions of § 50.005 of this chapter shall be enforced through the procedures of §§ 50.106 through 50.118 of this chapter, or at the option of the County, through the provisions of the county enforcement ordinance set out in Chapter 38 of this code. The Solid Waste Committee shall be notified of all solid waste enforcement actions.

(B) *Other violations.* The provisions of §§ 50.006 through 50.072 of this chapter shall be enforced by the Board of County Commissioners upon recommendation of the Solid Waste Committee, through the procedures set forth elsewhere in this chapter.
(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.104 VIOLATIONS DECLARED A NUISANCE; REMEDIES.

(A) The accumulation, storage, collection, maintenance, transportation, display or disposal of wastes by any person in violation of this chapter or regulations promulgated hereunder, is hereby declared

a nuisance. Umatilla County, by and through any agent designated by its Board of Commissioners, may institute legal proceedings to temporarily or permanently enjoin or abate such nuisances.

(B) No person in charge or control of property may permit, and no person may cause to exist, the accumulation, storage, collection, maintenance, or display of waste that is an imminent threat to the public health, safety, or welfare, or to the environment. Such imminent nuisances may be summarily abated as provided in § 50.116.
(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.105 APPEAL TO CIRCUIT COURT.

Any order of the Board under this chapter may be reviewed through a writ of review by the Circuit Court of the State of Oregon for the county.
(Ord. 90-07, passed 4-18-90; Ord. 99-01, passed 2-9-99)

§ 50.106 INITIATION OF ENFORCEMENT PROCEDURES FOR ILLEGAL DUMPING AND STOCKPILING OF WASTE.

Enforcement procedures may be initiated by any of the following: the Code Enforcement Officer; any law enforcement officer; or the written complaint of any person setting forth:

- (A) The location or address where the suspected violation occurs;
- (B) A brief description of the nature of the suspected violation; and
- (C) The name of the responsible party(s), if known.
(Ord. 99-01, passed 2-9-99)

§ 50.107 RIGHT OF ENTRY FOR INVESTIGATION.

In making an investigation, the Code Enforcement Officer, or any law enforcement officer, shall have the right of entry at reasonable times to

determine the existence of a violation of this chapter and to insure compliance with this chapter. (Ord. 99-01, passed 2-9-99)

§ 50.108 WARNING OPTIONAL.

(A) A warning of a violation may be issued, at the discretion of the enforcing official, based on one or more of the following circumstances:

- (1) The gravity of the violation(s);
- (2) The degree to which the violation(s) affects others;
- (3) Whether the person in violation knew or reasonably should have known that a condition or action is in violation of a Umatilla County ordinance;
- (4) Whether there is a history of previous violations or enforcement actions concerning the violator or the property in violation;
- (5) The presence or absence of other mitigating factors.

(B) Warnings may be given in person or by mail to the owner and/or occupant of property in violation of this chapter and the warning may include such information as the enforcing official deems appropriate. (Ord. 99-01, passed 2-9-99)

§ 50.109 CONSENT AGREEMENTS

(A) Contents. The County and the responsible party(s) may enter into a consent agreement prior to the issuance of a citation. The consent agreement shall specify the corrections necessary to cure the violation(s). As long as the responsible party complies with the consent agreement, the enforcement action will be suspended. If the responsible party fails in any manner to comply with the consent agreement, the enforcement action may be resumed at the point at which it was suspended.

(B) Signers. The responsible party(s) and its attorney, if any, will sign the consent agreement. The County Counsel will approve and sign the consent agreement on behalf of the County.

(C) Violation of the Consent Agreement. Failure to comply with the consent agreement is a separate violation for which the County may issue a separate citation and seek additional penalties. In addition, the County may seek additional remedies and penalties provided for by this or any other ordinance or law. (Ord. 99-01, passed 2-9-99)

§ 50.110 CITATION, COMPLAINT AND SUMMONS.

(A) A Citation, Complaint and Summons shall be used to initiate formal enforcement action against a violator(s).

(B) The Citation, Complaint and Summons shall state the following:

- (1) The name and address of the person(s) being charged with a violation.
- (2) The date of the violation and whether or not it a continuing violation.
- (3) The street address or a description sufficient for identification of the land upon which the violation has occurred or is occurring.
- (4) A summary description of the alleged violation.

(C) The Summons shall require the person charged with a violation to appear and answer the charge and shall include the following:

- (1) The date, time and location of the Circuit Court before which the person(s) charged must appear;
- (2) That failure to appear at the hearing may result in the person(s) named being found in contempt of court, and/or the arrest of the person(s) named;
- (3) The address and phone number where the Code Enforcement Officer may be reached;
- (4) The date of the citation;
- (5) The signature of the individual initiating formal enforcement action.

(Ord. 99-01, passed 2-9-99)

§ 50.111 SERVICE.

The Citation, Complaint and Summons shall be served on the party(s) charged, in person, or by certified mail with return receipt, or by regular mail if the certified mail is refused. If the party(s) to whom the Summons is directed cannot be served by any of these methods, then the Citation, Complaint and Summons shall be served by posting a copy conspicuously on the affected property. Proof of service then shall be made by a certified declaration of the person effecting the service, declaring the time and date of service and the manner in which the service was made.

(Ord. 99-01, passed 2-9-99)

§ 50.112 ACTION BY THE CIRCUIT COURT

(A) Pursuant to ORS 153.800 through 153.810, the Presiding Judge may elect to make a first offense of this chapter subject to the jurisdiction of the Violations Bureau.

(B) In the event the responsible party(s) plead or are found guilty of the civil violation(s) described in the citation, the Court, in addition to assessing monetary penalties, may set a date by which the responsible party(s) must demonstrate to the Court's satisfaction that the violation(s) has been fully corrected.

(C) In the event the responsible party(s) pleads guilty to a civil violation described in the citation, the Court shall have the discretion to reduce, suspend, or waive the monetary penalty if the responsible party(s) fully corrects the violation within the deadline set by the Court.

(D) In the event that the responsible party(s) fails to appear before the Circuit Court for the hearing, or fails to complete the Court ordered action required to correct the violation(s), the County may request that the Court hold the responsible party(s) in contempt of court and issue a warrant for their arrest.

(Ord. 99-01, passed 2-9-99)

§ 50.113 MONETARY PENALTIES.

(A) The maximum monetary penalty for each separate violation of § 50.005 of this chapter is \$500.00 for a non-continuing violation and \$1000.00 for a continuing violation.

(B) Failure to correct the violation by the Court-ordered date will be an additional violation. Continued failure to correct the violation each week following the Court-ordered date will be an additional violation. The Court may impose monetary penalties for these additional violations as follows:

- (1) \$200.00 per week for the first week.
- (2) \$300.00 per week for the second week.
- (3) \$400.00 per week for the third week.
- (4) \$500.00 per week for any week beyond the third week.

(C) In the event that the responsible party(s) fails to pay any monetary penalties imposed by the Court within the time set by the Court, the County may initiate collection proceedings as described in § 50.114, and at the expiration of 60 days, may also file and record the order for payment as a lien against the property in violation in accordance with ORS 30.460 and § 50.117 of this chapter.

(Ord. 99-01, passed 2-9-99)

§ 50.114 COLLECTION PROCEEDINGS.

In the event that the responsible party(s) fails to pay the monetary penalties imposed by the Court, the County may initiate collection proceedings as described in this section.

(A) The County shall send by certified mail with return receipt, and by regular mail if the certified mail is refused, to the responsible party(s) a notice that they must pay the fine imposed by the Court in full within 30 days or be summoned to appear in Court for contempt of court.

(B) If the fine is not paid in full within 30 days, the County may issue a summons to the responsible party(s) to appear in Court on the charge of contempt

of court.

(C) If the responsible party(s) fails to appear in court, or is found by the Court to be in contempt of court, the County may request that the Court issue a warrant for their arrest, with bail not to exceed the amount of the unpaid fine.
(Ord. 99-01, passed 2-9-99)

§ 50.115 CONTINUED DUTY TO CORRECT.

Payment of the fine imposed by the Court does not relieve the person(s) to whom the citation was issued of the duty to correct the violation.
(Ord. 99-01, passed 2-9-99)

§ 50.116 ABATEMENT BY THE COUNTY.

(A) The County may abate the violation, or cause the violation to be abated, when:

- (1) The terms of a consent agreement, pursuant to § 50.009, have not been met; or
- (2) A citation, complaint and summons has been issued pursuant to § 50.111, a hearing has been held pursuant to § 30.112, the responsible party(s) has pleaded guilty or been found guilty of a violation and the corrective action required by the Court has not been completed by the date specified by the Court; or
- (3) The violation is subject to summary abatement pursuant to §§ 50.104(B) and/or 50.116(C).

(B) The decision to proceed to abatement by the County shall be made by the Board of Commissioners.

(C) Summary Abatement. Whenever a violation causes a condition the continued existence of which constitutes an immediate or emergent threat to the public health, safety, or welfare, or to the environment, the County may summarily and without prior notice, abate the condition. Notice of such abatement, including the reason for it, shall be given to the person(s) responsible for the violation as soon as reasonably possible.

(D) Using any lawful means, the County or its agents may enter upon the subject property and may

remove or correct a violation which is the subject of the abatement. The County may seek such judicial process as it deems necessary to effect the abatement.

(E) Interference Prohibited. No person shall obstruct, impede, or interfere with the County or its agents, or with any person who owns, or holds any interest or estate in any property, in performing any acts necessary to correct a violation.

(F) The County shall maintain a record of all expenses incurred in abating a waste violation. The record shall include the costs of personal services, materials and an additional charge of 10% for administrative overhead.

(G) A notice of assessment for the cost of abatement shall be sent by certified mail with return receipt to the responsible party(s). The notice shall contain:

- (1) The total cost of abatement, including the administrative overhead;
- (2) A statement that the cost of abatement will become a lien against the property unless paid in 60 days;
- (3) A statement that if the owner or agent in charge of the property objects to the cost of abatement, he or she may file a notice of objection with the County within ten days of the date of the notice;
- (4) Notice that a fee for recording the cost of abatement as a lien against the property may be added to the cost of abatement.

(H) Objections to the proposed assessment shall be heard and determined by the Board of Commissioners.

(I) If the costs of abatement are not paid within 60 days from the date of the notice of costs, or if an objection was timely filed, from the date of the Board's determination of costs, the costs of abatement shall be filed and recorded as a lien upon the property subject to abatement in accordance with ORS 30.460 and § 50.117 of this chapter.
(Ord. 99-01, passed 2-9-99)

§ 50.117 LIENS

(A) Liens filed in accordance with §§ 50.113(C) and 50.116(I) shall be enforced in the same manner as liens for assessments are enforced and shall bear interest at a rate determined by Order of the Board of Commissioners. The interest shall commence on the date of entry of the lien in a special lien docket, which shall be maintained by the Office of County Records solely for that purpose.

(B) An error in the name of the owner or person in charge of the property shall not void the assessment, nor shall a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.
(Ord. 99-01, passed 2-9-99)

§ 50.118 DISPOSITION OF PENALTIES, COSTS COLLECTED.

All penalties and costs received by the County under this chapter shall be credited to the Nuisance Abatement Fund.
(Ord. 99-01, passed 2-9-99)

