



## The values of a regional solid waste system

Through its stewardship of the greater Portland area's garbage and recycling system, Metro seeks to:

- Protect and restore the environment and promote health for all
- Conserve natural resources
- Advance environmental literacy
- Foster economic well-being for all communities
- Ensure operational resilience and adaptability
- Provide excellent service and equitable system access

## Commercial food scraps policy

January 2019



*Food is the largest component of our waste stream. Almost one-fifth of what we send to landfills is food where it decays and creates methane, a potent greenhouse gas. In 2018, the Metro Council adopted a businesses food scraps collection requirement to capture the benefits of turning that material into energy and useful products.*

For more than 10 years, Metro and local communities have taken steps to keep food scraps out of landfills and put them to better use. Programs were established to enable businesses in some areas to voluntarily separate their food scraps from their other garbage and have them collected separately. Those food scraps are converted to compost and energy at facilities near Corvallis.

Today about 1,400 businesses participate in this program voluntarily, but food scraps collection services are not available consistently throughout the greater Portland area, and a tremendous amount of food is still being sent to landfills. In July 2018, the Metro Council adopted a new policy requiring the largest food service businesses to separate their food scraps from other garbage starting in 2020, and smaller food service businesses will be phased into the policy over the following three years. The policy requires city and county governments, which oversee the collection of garbage and recycling, to take actions by July 31, 2019, to ensure that food scraps collection services are available to businesses in their communities starting in 2020.

# Commercial Food Scraps Policy

## **Why did the Metro Council adopt a food scraps collection requirement for businesses?**

Food is the largest component of our region's garbage: about 18 percent of our overall disposed waste. Businesses are responsible for more than half of that – approximately 100,000 tons of food per year – and food scraps collection services are not offered consistently for businesses throughout the greater Portland area.

Collecting food scraps allows that material to be used to create clean energy as well as compost products that benefit farms, nurseries and gardens. Putting food scraps in the garbage is a missed opportunity to capture these benefits and make the most of this material.

Sending food scraps to the landfill is also an environmental concern. Food scraps are a primary contributor to the production of methane in landfills. Methane has a greenhouse gas impact at least 24 times that of carbon dioxide.

This isn't just a local priority. The state of Oregon recently established a goal to recover 25 percent of wasted food by 2020. In addition, the Oregon Legislature recently amended recycling laws to encourage local governments to increase the recovery of food scraps.

## **Which businesses will be affected and how many?**

This policy is focused on businesses and organizations that process, cook or sell food and generate large quantities of food scraps: restaurants, grocery stores, food manufacturers and processors, hospitals, hotels, nursing homes, colleges and universities, K-12 schools, catering, corporate cafeterias and others.

The quantity of food waste a business generates determines whether that business is subject to the policy and when it must begin separating its food scraps from its other garbage. (See estimation guide on page 5.)

This policy will be phased in over a period of four years and affect about 3,000 businesses in the food industry in the greater Portland area.

## **How will this policy be implemented?**

This policy will be implemented in three phases:

- Beginning on March 31, 2020, businesses that generate 1,000 pounds or more of food scraps (the equivalent of four 60-gallon roll carts) per week will be required to separate their food scraps for collection.
- Beginning on March 31, 2021, businesses that generate 500 pounds or more of food scraps (the equivalent of two 60-gallon roll carts) per week will be required to separate their food scraps for collection.
- Beginning on Sept. 30, 2022, businesses that generate 250 pounds or more of food scraps (the equivalent of one 60-gallon roll cart) per week, along with K-12 schools, will be required to separate their food scraps for collection.

Businesses that generate less than 250 pounds of food scraps per week will not be required to separate their food scraps from their garbage, but they may do so voluntarily.

# Commercial Food Scraps Policy

## **How will businesses implement a food scraps collection requirement?**

Although this program does not add any new material to a business' existing garbage system, it will change how materials are separated and collected indoors by staff and outside by garbage haulers. Businesses are already required to have systems to recycle paper and plastic, metal and glass containers. This requirement would add food scraps to the list for food service businesses.

Implementing a new collection practice presents an opportunity to make sure the collection service fits a business' needs. Some businesses may identify opportunities to reduce or prevent food waste, donate good food or reduce the size of garbage containers.

On-site assistance will be provided by city and county recycling staff to help businesses find the most efficient and effective approach. Assistance will be designed to help ease the transition to new food scraps collection practices through staff trainings, follow-up visits, problem-solving and resources such as collection containers and educational materials.

## **What will it cost?**

Costs will vary by business and by community. Some businesses may see cost increases with the added service of food scraps collection. Some businesses may see no increase or find savings by using smaller garbage containers or employing other waste prevention strategies. In some communities food scraps collection services, like recycling, may be included in one combined overall solid waste rate.

Metro is providing some garbage haulers with funding to mitigate increased costs of collecting and transporting food scraps so as to minimize the impacts on customers' rates.

## **What do businesses think?**

In the three years leading up to the adoption of this regional policy, Metro staff met with food industry businesses, trade association leaders and local government partners to inform our planning process and design a system to best meet the needs of businesses and local governments.

In September 2016, a series of interviews and surveys were conducted with businesses in the region outside of Portland. Interviews included businesses currently participating in food scraps collection, businesses that previously participated but stopped, and those that were offered the service but declined it.

- Nearly 45 percent of businesses were in favor of a mandatory collection program that had all businesses participating; 15 percent had no strong concerns and would comply if required; 30 percent had some concerns about how it would work but were not opposed; and 10 percent were opposed.
- On-site assistance, containers and training materials provided by county and city government staff were highly valued by participants.
- Cost neutrality, space constraints, labor and concerns about cleanliness were biggest concerns for non-participants.
- Most commonly businesses said they wanted to reduce the garbage sent to the landfill and do something good for the environment. Saving money was not a sole consideration, but keeping costs close to neutral was important.

## Commercial Food Scraps Policy

### **Do other communities have mandatory programs like the one the Metro Council adopted?**

Yes. There are six states and 13 municipalities that have some sort of mandatory food scraps collection program or a ban on the disposal of food in a landfill. Metro learned a lot from studying these other programs. Aside from the environmental benefits, many programs have also seen other positive trends such as increased donations of good food to food banks.

### **Shouldn't businesses donate food instead?**

Yes. Good food that has been stored properly and is fit for human consumption should be donated. However most food service businesses have other food scraps such as trimmings, bones, shells, coffee grounds, food preparation waste and plate scrapings that are not edible and cannot be donated. Those food scraps are the focus of Metro's policy.

The prevention of food waste and the donation of edible food are and will continue to be Metro's highest priority. City and county recycling staff can help businesses set up donation and waste prevention programs while assisting with food scraps collection.

### **What about residential food scraps collection?**

The focus right now is on recovering those concentrated amounts of food scraps coming from businesses where the quantities of food scraps are the greatest. This does not detract from the importance of keeping more food scraps out of the landfill. Metro supports, but does not require, efforts of local communities to collect food scraps with yard debris from homes for composting.

### **Who can I contact if I have further questions?**

Please contact Pam Peck at [pam.peck@oregonmetro.gov](mailto:pam.peck@oregonmetro.gov) or Jennifer Erickson at [jennifer.erickson@oregonmetro.gov](mailto:jennifer.erickson@oregonmetro.gov) if you have questions that are not addressed here. More information is also available on Metro's website at **[oregonmetro.gov/foodscraps](https://www.oregonmetro.gov/foodscraps)**.

### **How can a business know or find out how much food waste it generates?**

A calculator tool on the Metro website can help a business estimate the quantity of food scraps they generate. <https://www.oregonmetro.gov/food-scraps-policy>

**DRAFT**

**Food Waste Access to Services Fact Sheet**

June 11, 2019

**What is the Access to Services payment?**

To help ease the transition to more comprehensive and consistent commercial food scraps collection services across the region, Metro will make direct payments to haulers that have to travel a longer to a facility that accepts commercial food scraps than they would if this material was mixed with garbage.

**How is it calculated?**

Payment zones (areas eligible to receive funds) are defined as areas of the region that exceed the average base travel time to the closest transfer station by at least 10 minutes one way. In other words, if a hauler has to drive more than an additional 10 minutes one way to deliver food scraps to Metro Central Station than the closest transfer station, it qualifies for payments.

The amounts of the payments are based on:

- the number of businesses within each zone,
- the amount of food scraps expected to be captured in each zone, and
- the number of vehicles and trips required to collect the food scraps in that zone.

There are areas in the region that do not qualify for payments because they are calculated to be within a travel time to Metro Central Transfer Station, which accepts commercial food waste, that is no more than 10 minutes further away than any garbage transfer station.

Payment amounts are calculated as follows:

- Average per-hour cost to operate a collection vehicle.
- Additional time it takes round trip to bring food scraps to Metro Central rather than the nearest waste transfer station.
- Number and type of participating businesses within each payment zone.
- Estimated total tons per week generated by businesses in each zone divided by 50% (assumes 50% of the food scraps generated by these businesses will be captured)
- Based on an average food scraps load size, the estimated number of loads per week collected from all businesses within each zone.

**Example:**

Collection Cost (per minute)		Additional Minutes (round trip)		Additional Cost (per load)
<b>\$1.67</b>	<b>x</b>	<b>30</b>		<b>= \$50</b>
Additional Cost (per load)		Loads per Week		Payment per Week
<b>\$50</b>	<b>x</b>	<b>2.2</b>		<b>= \$110</b>

All of the elements of the calculation are based on real data or solid estimates. The payment zone system has been designed in a way that can be easily adjusted should new transfer services become available. For example, if a transfer facility were to open, zones can be recalculated and payments discontinued to those haulers where travel time to deliver food scraps no longer exceeds the base time in that zone.

**Who will receive payments?**

Franchised, licensed or otherwise locally-permitted waste haulers who meet the criteria in the administrative rules and who are operating within a jurisdiction that has adopted the requirement. Businesses who self-haul food waste may also qualify.

**What is required to qualify for payments?**

The following criteria must be met in order for a waste hauler to qualify for payment:

- a. The local government must adopt a legally-enforceable mechanism that meets the business food waste requirement and performance standard by the adoption deadline.
- b. Waste haulers must enter into a contractual agreement with Metro.
- c. Waste haulers must submit annual reports to Metro no later than March 31. Reports must demonstrate that funds have been included in Detailed Cost Reports submitted annually by waste haulers to local governments.
- d. Metro may request that local governments confirm that the payments received by waste haulers have been included in required Detailed Cost Reports and are factored into the collection rate-setting process. Cooperative programs may provide confirmation on behalf of member jurisdictions.

**How often will payments be made?**

Quarterly--in September, December, March and June. If all program qualifications are met, payment calculations will start when program implementation begins (March of 2020) with June 2020 being the earliest payment date.

**What has to be submitted in order to get payments?**

Haulers need to sign a short contract with Metro and will need to submit a one-page annual report documenting information such as total payments received and the number of businesses provided collection service during the year. Payments are automatically calculated and issued based on program and customer data collected by local governments and sent to Metro quarterly. Haulers do not need to submit invoices or request payment.

**Under what conditions would the payments stop?**

The payment is temporary and designed to help ease the costs associated with initial program implementation and will expire as the program matures and/or more proximate transfer or processing services become available. Metro will re-evaluate the payment system annually. After five years, Metro will review the regional services available and determine if the program should continue.

Metro will revoke payments and cancel the agreement if a hauler does not report payments or submits false or incomplete information to Metro or local governments.

**Will Metro notify haulers before they stop issuing payments?**

Yes. Haulers will receive notice at least 30 days before payments are discontinued.

**What about businesses that haul their own food waste?**

Metro may provide payments on a temporary basis to a business that transports its own source-separated food waste. The criteria are similar to those for haulers, except that food waste must be generated solely from the business' own operations and from a single location within the Metro boundary that is not within reasonable proximity of food waste transfer or processing services.

Businesses will need to meet the following criteria to qualify for payment:

- a. The business must be located within the jurisdictional boundaries of a local government that has adopted a legally-enforceable mechanism that meets the business food waste requirement and performance standard by the adoption deadline.
- b. The business must apply for a payment and submit all required information in a format prescribed by Metro.
- c. The business must fully comply with all program criteria or standards.
- d. The business must demonstrate to Metro that its food waste was previously being disposed as waste in a landfill. A business does not qualify for payments if it transports its food waste to other locations for other uses or recovery.
- e. A business must have a credit account with Metro for use of Metro Central station including obtaining Metro-issued RFID tags. Cash transactions are ineligible for access payments.



# Final Public Comment Report: Business Food Waste Requirement



October 1, 2018

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## BACKGROUND

### First Comment Period

Between September 15 and October 20, 2017, Metro conducted the first public comment period for the proposed business food waste requirement ordinance and associated administrative rules. Notification letters were sent to more than 2,000 potentially-affected businesses to inform them of the policy and to invite comments. Metro also produced 1,000 public comment postcards for local government partners to hand out to businesses. A Metro News story, published on September 15, also announced the public comment period and provided information on how to submit public comment. This Metro News story was also promoted on Metro's Facebook page ([www.facebook.com/oregonmetro](http://www.facebook.com/oregonmetro)) and Twitter feed (@oregonmetro).

In addition, the Metro web page dedicated to the food scraps project ([www.oregonmetro.gov/foodscraps](http://www.oregonmetro.gov/foodscraps)) provided businesses with information on what types of materials would be included in the program, the types of businesses that would be required to participate, an estimate of the dates businesses would need to be in compliance with any new policy, and a guide designed to help businesses estimate the quantity of food scraps their business likely generates.

Comments were required to be submitted in writing for inclusion in this report. Comments were received primarily through an email address established for the comment period. Comments were also received via U.S. mail, through letters emailed to the Metro Council offices, and through a related Metro News posting on Metro's Facebook page.

### Second Comment Period

From April 16 through May 15, 2018, Metro conducted a second public comment period to solicit comments on the changes made to the administrative rules noted below.

The region may still have a limited number of facilities that accept commercial food scraps at the time the program is implemented, which might result in increased travel times for haulers delivering collected food scraps. Those times would translate into higher costs that would be passed on to customers. To address this, the administrative rules originally contained a distance waiver, through which Metro would waive the required food scraps collection requirement until a jurisdiction had a food scraps transfer station or processor in relatively close proximity. Following input from the Metro Council at the Council work session in November 2017, **Metro staff developed an alternative approach intended to achieve the same objective as the distance waiver**, but to do so in a way that more strongly advances the intent of the regional food scraps policy and allows all businesses to participate. In addition, the **policy implementation dates were adjusted** forward one year to allow for ample time for collection system development.



The Metro Council held a public hearing on Ordinance 18-1418 on July 12, 2018 and adopted the ordinance on July 26, 2018. The administrative rules were on a separate yet parallel path and a third 30-day review and comment period was held for the rules only as described below.

### **Third Comment Period (Administrative Rules only)**

From August 31 through September 28, 2018, Metro conducted a third public comment period. Due to Council adoption of Ordinance 18-1418, only the administrative rules were included in this final comment round.

Following input from local governments, the solid waste hauling community, businesses, citizens and Metro's Solid Waste Alternatives Advisory Committee, additional changes were made to the administrative rules. The **access to services payments section was amended to directly compensate solid waste haulers** to offset the potential additional cost of delivering food scraps to Metro Central Transfer Station. Previous versions of the rules had these funds paid to local governments. A **provision was added to the access to services payments** to enable companies that haul their own food waste (such as food processors) to qualify for these payments. More specific wording was added to indicate that **schools may include food waste collected from student lunches** and not just from the food preparation phase. Other minor changes were made to wording in order to increase clarity and to update formatting to meet the new Metro standard.

All of the comments received, as well as the comment log with staff response are included with this report as Attachment A.

## **COMMENT SUMMARY**

### **First Comment Period**

At the close of the first comment period, 40 sets of written comments were received:

- 20 were clearly supportive of the mandatory policy
- 1 was opposed
- 11 requested specific edits to the policy or had general concerns and suggestions for changes
- 6 had general questions or were requests for additional information on various topics
- 2 comments were not applicable or neutral
- A fifth-grade class from Sauvie Island Academy also submitted letters; 18 students were in support and 4 were opposed.

The majority of those **in favor** of the policy indicated:

- A mandatory program was overdue and it was a surprise that it was not yet required in such an environmentally progressive region.
- The education and outreach structure and associated funding to support local government technical assistance is important for businesses to be successful.
- It is important to make sure that proper infrastructure is in place for businesses and that there is adequate funding to support implementation success.
- It is the responsible and sustainable thing to do, all businesses should be required to participate and the data support the need for the policy.

The one comment **opposed** to the policy believed that these businesses were already participating in a program and if the service was free, more would participate.

The **concerns** expressed by eleven of the comments included the following:

- Increased costs to businesses already strained by new fees and taxes
- Potential nuisance or health/sanitation issues
- Questions regarding Metro’s legal authority to impose the policy on local governments
- Risk of failure or unintended consequences
- Equity—better understand the burdens on different business communities, especially those with little influence over the policy
- Concerns about timeframe for implementation being too aggressive—should be more flexible
- Critical cost details are still unknown
- Necessary infrastructure for commercial food waste transfer still lacking in the region

### **Second Comment Period**

At the close of the second comment period, 8 sets of written comments were received:

- 3 were in support of the policy
- 3 supported intent of the policy but had specific concerns about how the access to services funds would be disbursed
- 1 requested that Metro consider a pilot program in one area of the region prior to region-wide implementation
- 1 requested the requirement be expanded to cover multifamily households

### **Third Comment Period**

At the close of the third comment period, 3 sets of written comments were received:

- All comments supported the intent of the rules
- All comments requested that Metro expedite the development of transfer capacity to better serve the region and that the access to service payments serve only to temporarily bridge the service gaps
- None of the comments suggested specific changes to the rules as written

## **AMENDMENTS MADE TO DRAFT POLICY**

All comments received during the first comment period were reviewed by the intergovernmental policy team. Those comments that requested **specific changes** to the Administrative Rules were discussed by the team which then determined which comments necessitated changes or clarifications to the draft ordinance and administrative rules documents and what those specific changes should be. The majority of the changes made were to improve clarity and correct inconsistencies in the documents. The revised draft of the ordinance and administrative rules, dated November 8, 2017, which illustrates proposed changes based on the comments during this first period is included as Attachment B.

Comments received during the second comment period were reviewed by Metro staff. The primary changes were to the Access to Services Payments section of the administrative rules—shifting payments to solid waste haulers rather than to local governments and including specific businesses in the payments. The revised draft of the administrative rules, dated August 22, 2018, which illustrates changes based on the comments during this second period is included as Attachment C.

Comments received during the third comment period were reviewed by Metro staff. No substantive changes were made to the draft documents based on the comments received. The final version of the rules is included as Attachment D.

## CONCLUSION

The first round of public comments indicated overall general support for the policy.

- Questions remain regarding the details of the temporary waivers for local government implementation. Staff will need to determine the appropriate criteria and base data, evaluate potential impacts on tons recovered and collection economics, test approaches and revise the rules over time.
- Questions remain regarding the financial impacts of the policy both on local governments and on affected businesses. Metro needs to complete further analysis on the cost impacts including the tip fee that will be charged prior to the effective date of the policy if the ordinance is adopted by the Metro Council. (The policy would take effect on October 26, 2018, if the Metro Council adopts the ordinance on July 26, 2018.)
- Metro should develop and issue guidance documents to bring clarity to specific elements of the Administrative Rules; specifically local government reporting requirements.

The second round of comments echoed the overall support and raised the following:

- Some local governments and the hauling community requested that the access to transfer services payment disbursement method be reconsidered. The preference of the commenters was that the payments be directed to the haulers rather than local governments.
- Questions remained regarding the parameters of how the funds could be used should they be allocated to local governments rather than haulers.

The third round of comments supported the intent of the policy, appreciated the changes made to the access to service payments and reiterated the need for a more transfer options to serve the region.

On September 26, 2018 a public hearing on the draft administrative rules was held in accordance with Metro Code Chapter 5.01.280. The final draft of the administrative rules (AR 5.10-4000 through 4090) will be presented to Metro's Chief Operating Officer for adoption. If adopted, the rules become effective 30 days after adoption unless the Chief Operating Officer specifies a later adoption date.

The complete report, including all attachments can be viewed on the Metro website: [www.oregonmetro.gov/foodscraps](http://www.oregonmetro.gov/foodscraps)

City of Oregon City—Metro Business Food Waste

City Commission Work Session July 9, 2019

Metro and Clackamas County Question and Answer

**1. Where does Metro intend the Haulers to dispose Food Waste? Is Metro South an option? How will the collection stations be used moving forward?**

**Metro:**

Haulers will have three options:

- Metro Central Station
- WRI (Wilsonville)
- Pride (Sherwood/Tualatin)

Metro Central and WRI currently accept commercial food waste. Pride will begin accepting this material in 2020.

Metro South is currently not an option for source-separated commercial food waste. Clackamas County has asked Metro whether it could comply with the commercial food separation policy by having its haulers utilize one truck to co-collect residential yard debris with commercial food waste and deliver those loads to Metro South, which accepts mixed yard debris and food. Metro is considering this request for a limited number of loads over a limited timeframe. Metro needs to further assess the likely amounts of material that would be received and Metro South Station's capacity to manage it.

**Clackamas County:**

We also believe that if Metro South cannot be used for limited quantities of commercial food waste, that it may be worth seeking a temporary re-load location for food scraps nearby.

**2. How does Metro intend to mitigate the additional cost for Haulers to Metro Central? (extra trip mileage of 41miles/2 hours)**

**Metro:**

For jurisdictions that have enacted commercial food separation ordinances, Metro will make direct payments to haulers that have greater than average travel time to a facility that accepts commercial food waste. Metro's Administrative Rules lay out the method for payment calculation as follows: Metro will calculate the payment amount for a waste hauler using the following elements:

- a. Average cost per hour to operate collection vehicle in the Metro region.
- b. Number and type of businesses subject to the food separation policy within the designated payment zone and within a waste hauler's collection franchise boundary.
- c. Estimated total tons per week generated by these businesses within the zone at a 50% capture rate.
- d. Number of loads per week generated by the businesses within the zone. Load size will be based on the average size of route truck food waste loads delivered to Metro Central Transfer Station over a 12 month period.
- e. Maximum additional time round trip beyond reasonable proximity required to transport loads to food waste transfer or processing services.

Qualifying haulers must sign a short agreement with Metro to receive payments, which will be made v

quarterly based on automated reports sent by local governments to Metro documenting the businesses that are receiving service.

Below are some estimates of the annual payments that would be made to B&B Leasing (for Oregon City businesses only) if the program is fully implemented and all of the targeted businesses are participating.

Group 1 full implementation: \$8,255 annually

Groups 1 & 2 full implementation: \$16,082 annually

Groups 1, 2 & 3 full implementation: \$23, 625 annually

*(If Safeway/Albertsons participated using the franchised hauler, the payments to B&B would increase by \$7,682 beginning with Group 1)*

Metro makes thousands of on-time payments to vendors each year. Metro would appreciate receiving any details related to the comment about Metro's payment history.

**3. Metro Expressed mitigation of cost by charging \$30 less per ton? How does Metro plan on reimbursing the funds? Does Metro plan on mitigating based on cost analysis?**

**Metro:**

At Metro Central Station, the tip fee for commercial food scraps is currently \$66.23 per ton and the tip fee for mixed solid waste is \$97.45 per ton; this is where the differential lies. Haulers delivering commercial food waste to Metro Central pay the \$66.23.

**Clackamas County:**

Note that if Metro South might be available for a limited term or limited quantity for commercial food, it is important to clarify whether the hauler will pay the commercial food rate, the YD rate, or the organics rate. If haulers pay the fee for organics, this fee is higher than the fee for YD only, which might offset some or all of the cost savings from avoiding Central or WRI.

Also, the County is interested in the cost to transfer commercial food at WRI.

**4. If food scraps are allowed to be disposed with yard debris, will yard debris collection points have issues with sorting or business/operational permits?**

**Metro:**

If commercial food waste is collected with yard debris, it will be mixed with the residential yard debris/food mix and sent to fully-permitted compost facilities that already accept this material. It will not be sent to yard debris-only facilities.

**5. How does the County and Metro plan to educate the businesses? Can the county provide the educational flyers/brochures used?**

**Metro:**

Metro will provide Clackamas County with \$223,188 in fiscal year 2019-20 to support technical assistance and education to businesses as well as \$7, 099 for collection containers. It is Metro's intent to continue with a similar level of annual funding through FY 2023-24. Clackamas County will use these funds to hire staff who will be responsible for helping businesses implement food waste collection, waste prevention and food donation programs.

- 6. The City and the franchise hauler must agree on the frequency of pick-ups for food waste as it may cause unwanted nuisances. Has Metro/Clackamas County understood the impacts not only on the businesses but to the whole community? (rodent, smells, roads, traffic, cost, maintenance)**

**Clackamas County:**

Food is already present in abundance in the same types of containers that will be used. In our work with other businesses we have not heard a reported increase in nuisances due to rodents. Concentrated food in a container can create a more pronounced odor more quickly than it might if spread throughout the garbage. These odors can be controlled somewhat through the use of compostable bags and where appropriate, more frequent pickup. The County's unincorporated customers predominantly receive once-a-week pickup, but the County's administrative expectations include the possibility of twice-a-week.

If twice-a-week pickup is necessary to address a nuisance condition, then we will require our haulers to provide that frequency.

- 7. Does Metro/Clackamas County intend to regulate the collection receptacles to ensure no additional nuisance?**

**Clackamas County:**

The County does not currently intend to add new regulation over collection receptacles beyond existing requirements. For example, carts and containers may not leak. They may not contribute to nuisance conditions. We are requiring haulers in unincorporated areas to use an APPROVED, GREEN roll cart. We have made these available and can work with the City to purchase them if helpful. For the most part haulers are using roll carts because they want consistency in collection format. But if a hauler decided to use a mix of containers and roll carts, we would not object.

If experience with new collection programs indicates that collection containers are an issue, we would be interested in working with cities and Metro to identify different approaches. Haulers are free to experiment with innovative approaches to collecting food waste where it can meet our requirements.

- 8. Currently Safeway and Providence are the only participating businesses in Oregon City and that is on their own. Oregon City feels all businesses should be required to participate through the City franchise hauler.**

**Clackamas County:**

This is something that Oregon City may choose to do, but these two businesses are operating within the city code, as far as we understand. Certainly, the County's code allows self-haul. We believe Providence does NOT want to self-haul their material.

- 9. City Staff/Metro equations show 154510 lbs/wk a typical truck carries between 55,000 lbs and 60,000 lbs. If Metro equations are correct this will yield the need to collect food waste 3 times a week. Has Metro or the County considered the impacts of this regard?**

**Clackamas County:**

Oregon City is the only city in the County that is doing its own versions of the calculations. We think that these calculations overestimate of the food waste that is actually being generated. We may be able to

produce a better estimate taking a close look at the employee numbers for businesses. For example, in Oregon City, if you make a calculation for Abby's Pizza using the reported number of employees from the business license (50+) you will end up with more than 2000 pounds per week as an estimate. This would be approximately 8 roll carts—which is closer to what Costco generates.

A typical truck can load 5 to 10 tons of waste (10,000 to 20,000 lbs). We'd like to double-check these numbers as we discuss this further.

#### **10. Please provide success stories from neighboring jurisdiction**

##### **Metro:**

Businesses in Portland have been participating in the program voluntarily since 2005 and many other jurisdictions began programs in 2012-13. Over 1,400 businesses currently participate in the program in Portland, Gresham, Beaverton, Hillsboro, unincorporated Clackamas County, Canby, Lake Oswego, Milwaukie, West Linn, Wilsonville, unincorporated Washington County, King City, North Plains, Sherwood, Tualatin, and Tigard. Businesses of all sizes from Providence Hospital to The Bomber Restaurant in Milwaukie are participating and have seen benefits to their business' bottom line.

##### **Clackamas County:**

There are several success stories from businesses in unincorporated urban Clackamas County.

For example:

- The Bomber Restaurant – see case study

- Willamette View retirement community – see slide

- Rose Villa retirement community – see slide

- Cost-Co – They are saving thousands of dollars a year through commercial food collection.

But cost savings for an individual business will only be created if Oregon City chooses to blend the costs across the commercial rate base.



Oregon City Covered Business Food Waste Requirement			
	Businesses	LBS/WEEK	Cart Number
Group 1- March 31, 2020	15	21200	106
Group 2- March 31, 2021	32	14200	71
Group 3- Septemeber 30,2022	70	15100	75.5
Group 4- Not required may comply	29	2400	12
Total	146	52900	264.5

GROUP 1(Estimate)

Estimates Lbs/lift	Est.Cart Count	BUSINESS_GROUP	FIRMNAME	SECTOR	TITLE	AveFTE	STREET
1200	6	1	Berry Park Retirement Community - Avamere	Health Care	Assisted Living Facilities for the Elderly	87.5973	13669 S GAFFNEY LN
1200	6	1	Mcloughlin Place	Health Care	Assisted Living Facilities for the Elderly	43.365	1153 MOLALLA AVE
1200	6	1	Clackamas County Jail	Correctional Facilities	Correctional Institutions	127	2223 KAEN RD
600	3	1	Abby's Legendary Pizza - Oregon City	Food Service	Full-Service Restaurants	34.5423	19011 BEAVERCREEK RD
600	3	1	Bugatti's Hilltop	Food Service	Full-Service Restaurants	33.865	334 WARNER MILNE RD
600	3	1	Lil Cooperstown Pub & Grill - Oregon City	Food Service	Full-Service Restaurants	27.092	19352 MOLALLA AVE
600	3	1	Sharis Restaurant - OC Beavercreek	Food Service	Full-Service Restaurants	33.865	19001 S BEAVERCREEK RD
600	3	1	Sharis Restaurant - Oregon City	Food Service	Full-Service Restaurants	27.092	1926 MCLOUGHLIN BLVD
600	3	1	Tacho's Mexican Restaurant	Food Service	Full-Service Restaurants	20.319	515 MOLALLA AVE
2000	10	1	Providence Willamette Falls Hospital	Health Care	General Medical and Surgical Hospitals	460.2416	1500 DIVISION ST
2400	12	1	Albertsons - Oregon City	Grocery	Supermarkets and Other Grocery (except Convenience) S	58.016	19007 S BEAVERCREEK RD
2400	12	1	Grocery Outlet - Oregon City	Grocery	Supermarkets and Other Grocery (except Convenience) S	19.0624	878 MOLALLA AVE
2400	12	1	Safeway - Oregon City	Grocery	Supermarkets and Other Grocery (except Convenience) S	124.32	13434 COLTON PL.
2400	12	1	Fred Meyer - Oregon City	Grocery	Warehouse Clubs and Supercenters	165.76	1839 MOLALLA AVE.
2400	12	1	WinCo Foods - Oregon City	Grocery	Warehouse Clubs and Supercenters	41.44	19701 HWY 213



## Chapter 5.04 - BUSINESS LICENSES<sup>(1)</sup>

### Footnotes:

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**Editor's note**— Ord. No. 10-1014, § 1, adopted Mar. 16, 2011, amended Ch. 5.04, in its entirety to read as herein set out.

#### 5.04.010 - Purpose.

In order that business, manufacturing, pursuits, professions and trade be carried on and conducted in the city in a profitable and peaceful manner, it is necessary that the same be regulated and safeguarded. (Ord. 01-1001 §1(part), 2001: prior code §5-2-2(part))

(Ord. No. 10-1014, § 1, 3-16-2011)

#### 5.04.020 - Definitions.

As used in this title, the following words and terms shall have the meanings herein ascribed to them, unless the content makes such meaning repugnant thereto:

"Business" means any trade, profession, occupation or pursuit of every kind conducted in the city for gain.

"Business license manager" means the Oregon City finance director or a person or persons designated by the finance director to act on behalf of the city for purposes of this chapter.

"City" means the city of Oregon City, Oregon.

"City manager" means the Oregon City manager or a person or persons designated by the city manager to act on behalf of the city for purposes of this chapter.

"Commission" or "city commission" means the city commission of Oregon City, Oregon.

"Food stuffs" means any article of food intended to be sold or used for human consumption, and shall also include tobacco in all forms, and beverages.

"House" means and includes hotels, rooming and lodging houses where rooms are equipped for sleeping purposes and are rented for periods of less than thirty days.

"Person" means any person, firm, co-partnership, association, joint venture, syndicate, society or domestic or foreign corporation, and includes fraternal organizations, clubs, lodges and similar places or establishments employing full-time or part-time employees in any business for gain which is not specifically exempt from the provisions of this chapter by the Constitution, laws or regulations of the United States or of the state.

"Retail" means any sale direct to the consumer or user for consumption or use and not for resale purposes.

"Street" means any street, alley, avenue, highway, court or land in the city.

"Transient merchant" means every person engaged or participating in a temporary or transient business of selling or exhibiting for sale goods, wares or merchandise in any room, building or structure, whether he be associated with any local dealer or not, unless such temporary or transient business is

conducted upon the premises regularly occupied by the local dealer. (Ord. 01-1001 §1 (part), 2001: prior code §§5-1-1 and 5-2-1)

(Ord. No. 10-1014, § 1, 3-16-2011; Ord. No. 16-1001, § 1(Exh. A), 3-16-2016)

#### 5.04.030 - Exemptions.

There shall be exempt from the requirements of this chapter the following:

- A. Any person whose income is based solely on an hourly, daily, weekly, monthly or annual wage;
- B. Any person conducting a garage sale or other isolated sale not on a continuing basis where the merchandise is composed of the real or personal property of the seller not acquired for the purpose of resale. (Ord. 01-1001 §1 (part), 2001: prior code §5-2-2 (part))

(Ord. No. 10-1014, § 1, 3-16-2011)

#### 5.04.040 - Disposition of proceeds.

All monies received from licenses issued hereunder shall be accounted for separately and dedicated, after payment of costs, to economic development and administration.

(Ord. 01-1001 §1 (part), 2001: prior code §5-2-3)

(Ord. No. 10-1014, § 1, 3-16-2011; Ord. No. 15-1001, § 2, 3-18-2015)

#### 5.04.050 - Presumption of business.

Any person that advertises or otherwise holds himself out to the public as engaged in any business, profession, trade or calling for which a license is required, shall be conclusively presumed as holding himself out to the public as so engaged, and shall pay such license fee as required by this chapter. (Ord. 01-1001 §1 (part), 2001: prior code §5-2-4)

(Ord. No. 10-1014, § 1, 3-16-2011)

#### 5.04.060 - License—Required.

No person shall carry on any business within the City without first obtaining a license therefor. Nor shall any person carry on any such business without complying with the provisions of this chapter. No license shall be issued to any business prohibited by local, state or federal law. (Ord. 01-1001 §1 (part), 2001: prior code §5-2-5)

(Ord. No. 10-1014, § 1, 3-16-2011; Ord. No. 12-1003, § 1, 4-4-2012; Ord. No. 16-1001, § 1(Exh. A), 3-16-2016)

#### 5.04.070 - License—Application.

- A. Application for the licenses required by this chapter shall be made to the business license manager upon forms provided by the business license manager on or before the first day of January of each year for which a license is required.
- B. Any new business which is not in operation on or before the first day of the license year and which desires to conduct business within the city shall make application for the license required by this chapter to the business license manager before starting a business.
- C. The chief of police, chief of the fire department, city engineer, code compliance officer, other departments and/or their agents and subordinates, are directed and empowered to review license applications for the purpose of determining whether a proposed business license complies with all building, zoning, signage, fire and police and other legal requirements.
- D. Incomplete applications will expire if not completed within ninety days. In the event a license application expires, the applicant may reapply for the business license.

(Ord. 01-1001 §1 (part), 2001: prior code §5-2-6)

(Ord. No. 10-1014, § 1, 3-16-2011; Ord. No. 16-1001, § 1(Exh. A), 3-16-2016)

**Editor's note**— Ord. No. 16-1001, § 1(Exh. A), adopted March 16, 2016, changed the former § 5.04.070 catchline, to read as set out herein. The former section catchline previously read: "License—Application—Proration of fees."

5.04.080 - Examination of business premises—Hearing—Suspension or issuance.

- A. The chief of police, chief of the fire department, city engineer, code compliance officer, other departments and/or their agents and subordinates, are directed and empowered to investigate and examine all places of business licensed or subject to license under the terms of this chapter at any time and all reasonable times in accordance with applicable law for the purpose of determining whether such place of business is safe, sanitary and suitable for the business so licensed or for which application for license is made.
- B. In the event it is determined by such officers or their agents that any such place of business is dangerous to public health, safety, welfare or is likely to become or is at that time a public menace or nuisance, the business license manager shall send by certified mail to the concerned business, notification of a hearing to be held before either the Oregon City Municipal Court or the Oregon City Code Hearings Office. The purpose of the hearing shall be to determine whether the concerned business shall be permitted to receive a city business license, or if the concerned business had previously been issued a city business license, whether such license should be suspended or revoked.
- C. The notification to the concerned business shall set forth the time and place of the hearing and will cite specific incidents that constitute the basis for the determination by the chief of police, chief of the fire department, city engineer, code compliance officer, other departments and/or their agents and subordinates, that the concerned business is dangerous to either public health, safety, welfare or is likely to become or is at the present time a public menace or nuisance.
- D. At the hearing on the question of whether the business license should be issued, or if previously issued, whether it should be suspended or revoked, evidence or testimony shall be received and considered only when such evidence or testimony is relevant to the cited incidents or offenses contained in the notification to the concerned business. If a determination is made that all or a

portion of the incidents or offenses set out in the notification to the concerned business are supported by substantial evidence, the Oregon City Municipal Court or Oregon City Code Hearings Office shall refuse to issue a business license to the concerned business, or if a business license has previously been entered, shall suspend or revoke such license. The decision of the Oregon City Municipal Court or the Oregon City Code Hearings Office shall be the final decision of the city.

- E. Any investigation having been satisfactorily completed without a determination by the city officials that the business is dangerous to public health, safety, welfare or is likely to become or now is a public menace or nuisance, or if such a determination has been so made, and if the Oregon City Municipal Court or the Oregon City Code Hearings Office finds that such determination is not supported by substantial evidence, a license shall be issued by the business license manager. (Ord. 01-1001 §1 (part), 2001: prior code §5-2-7)

(Ord. No. 10-1014, § 1, 3-16-2011; Ord. No. 16-1001, § 1(Exh. A), 3-16-2016)

**Editor's note**— Ord. No. 16-1001, § 1(Exh. A), adopted March 16, 2016, amended § 5.04.080 to read as herein set out. Former § 5.04.090, pertained to License—Suspension or issuance—Public hearing, and was incorporated, verbatim, into § 5.04.080 as subsection D. A new subsection E. of § 5.04.080 was added.

5.04.090 - License—Denial, suspension or revocation—Appeal.

If the issuance of a business license is denied, or if a business license is suspended or revoked, by a reviewing department, for reasons other than a determination set out in Section 5.04.080, the business license manager shall send to the applicant/license holder, by certified mail, written notice of the denial or revocation and of the right to an appeal. The denial or revocation of the license is final unless the applicant/license holder appeals the decision in writing to the city manager within ten business days of receipt of the notification. The city manager shall, within ten business days after the appeal is filed, consider all the evidence in support of or against the action appealed and render a decision either sustaining or reversing the denial, suspension or revocation. The decision of the city manager shall be the final decision of the city. (Ord. 01-1001 §1(part), 2001: prior code §5-2-8)

(Ord. No. 10-1014, § 1, 3-16-2011; Ord. No. 16-1001, § 1(Exh. A), 3-16-2016)

5.04.100 - License—Suspension or revocation—Effect.

If a business license is suspended or revoked, the concerned business shall immediately cease conducting any and all businesses within the city. Any business that continues to conduct business within the city subsequent to a suspension or revocation shall be subject to the same fine and penalties as if such business had never obtained a city business license and was carrying on a business within the city without such a business license. (Ord. 01-1001 §1(part), 2001: prior code §5-2-9)

(Ord. No. 10-1014, § 1, 3-16-2011)

5.04.110 - License—Issuance.

The business license manager shall review the application and, if it complies with all requirements of this chapter, including being legally allowed to operate in the city and all fees having been paid, the

business license manager shall issue a license within thirty days of application being complete. (Ord. 01-1001 §1(part), 2001: prior code §5-2-11)

(Ord. No. 10-1014, § 1, 3-16-2011; Ord. No. 16-1001, § 1(Exh. A), 3-16-2016)

#### 5.04.120 - Effect of license issuance.

The issuing of a license pursuant to this chapter or the collection of a fee or tax shall not permit any person to engage in any unlawful business. The licenses levied and fixed by this chapter shall be in addition to the general ad valorem taxes now or hereafter levied pursuant to law. All ordinances of the city in force on the effective date of the ordinance codified in this chapter pertaining to or covering any business, pursuit or occupation and providing a license or condition for its operation, shall remain in full force and effect. In the event of a conflict or duplication of a license fee, then such other ordinance shall have precedence over the provisions of this chapter to the end that there will be no duplication of license fees for the same business, occupation, profession or pursuit. (Ord. 01-1001 §1(part), 2001: prior code §5-2-12)

(Ord. No. 10-1014, § 1, 3-16-2011)

#### 5.04.130 - Separate license for separate locations.

If any person operates a business in the city in more than one location, each location shall be considered a separate business for the purpose of this chapter, except the warehouses used in connection with a business shall not be so separately licensed. (Ord. 01-1001 §1(part), 2001: prior code §5-2-13)

(Ord. No. 10-1014, § 1, 3-16-2011)

#### 5.04.140 - License—Display.

All licenses issued in accordance with this chapter shall be openly displayed in the place of business or kept on the person or on the vehicle of the person licensed and shall be immediately produced and delivered for inspection to the chief of police, the chief of the fire department, the code compliance officer, other departments and/or their agents and subordinates, when so requested. Failure to comply with the provisions of this section shall be deemed a violation of this chapter. (Ord. 01-1001 §1(part), 2001: prior code §5-2-14)

(Ord. No. 10-1014, § 1, 3-16-2011; Ord. No. 16-1001, § 1(Exh. A), 3-16-2016)

#### 5.04.150 - License—Computation of fees.

- A. Business License Application Fee. All persons, upon submittal of an initial application for a business license, shall pay a non-refundable application fee.
- B. Annual Business License Fee for Persons Having a Fixed Place of Business Within the City. All persons, upon the initial application for a business license and upon each subsequent year renewal of a business license, who have a fixed place of business within the city and are subject to being licensed under the provisions of this chapter, shall pay an annual business license fee based upon the number of individuals carrying on such business, profession, pursuit, or occupation.

- C. In arriving at the number of individuals carrying on such business, profession, pursuit or occupation, there shall be considered the proprietors thereof and all individuals regularly employed in such by said proprietors. If such is carried on by a corporation, all officers and employees of the corporation who devote the principal part of their time to such business, profession, pursuit or occupation shall be considered. If any person shall have his principal place of business outside the city, then only such proprietor, officers or employees shall be considered as are actually engaged in such business, profession, pursuit or occupation within the city.
- D. Annual Business License Fees for Persons Having No Fixed Place of Business Within the City. The city commission finds that certain trades, shops, businesses or callings are carried on in the city by persons from regular places of business and by persons who have no regular place of business within the city, that persons with regular places of business in the city pay city ad valorem property taxes upon real and personal property which is used in and belongs to their business and that the persons who do not have regular places of business in the city escape such ad valorem taxation. Both receive the benefit of police and fire protection, public utilities and sidewalks, street lights, health services and other public facilities and services of the city. Therefore, in order that each shall pay as nearly as may be not a discriminatory share, but a share in proportion to benefits received of the burden of supporting such facilities and services of the city, such businesses not operating from regular places of business in the city shall pay one and one-half times the annual license fee for businesses operating from a fixed place of business within the city.
- E. Proration of Business License Fee. If an application is received on or before June 30, the full application fee and the full annual license fee is required. An application received on or after July 1 will be charged the full application fee and one-half the annual license fee.
- F. Additional Fees. Certain businesses generating the need for additional city services should be subject to fees in addition to those imposed for a general business license. These additional fees shall be as follows:
  - 1. Circuses, carnivals, theatrical and musical productions, festivals and other operations of like nature are subject to a per event fee.
  - 2. For the privilege of engaging in the business of displaying or operating the following machines:
    - a. Amusement, cigarette, music, pool table/dart board, snack/drink machine, video games are subject to a per machine fee. This fee does not apply to any machine owned by the state.
  - 3. Manufactured dwelling parks are subject to a per space fee.
- G. License fees not paid within thirty days of the required date shall be deemed delinquent. An initial collection charge is imposed for delinquent fees. An additional collection charge equal to a percentage of the fee is imposed for each month or portion thereof that the fees remain delinquent. The city manager shall have authority to waive payment of collection fees under circumstances where imposition thereof would create an injustice or unreasonable hardship.
- H. Amounts for fees included in this chapter shall be established by city commission resolution. Fee amounts may be revised by resolution of the city commission from time to time.
- I. In the event the applicable classification or fees assessable to a business require clarification or interpretation, any interested person may request a determination by the city manager, whose decision shall be final. The city manager shall have the authority to waive all or a portion of established fees to meet the intent and purpose of this chapter. (Ord. 07-1000 §1, 2007: Ord. 01-1001 §1(part), 2001: prior code §5-2-15)

(Ord. No. 10-1014, § 1, 3-16-2011; Ord. No. 16-1001, § 1(Exh. A), 3-16-2016)



5.04.160 - License—Transfer.

No transfer or assignment of any license issued hereunder shall be valid or permitted, except that whenever any person sells or transfers in has been paid, then the vendee thereof shall not be required to pay the balance of the license year. (Ord. 01-1001 §1(part), 2001: prior code §5-2-16)

(Ord. No. 10-1014, § 1, 3-16-2011)

5.04.170 - Street sales prohibited.

It is unlawful for any person to sell, or offer to sell, any goods, wares or merchandise on any of the streets, alleys or sidewalks of the city, from any booth, wagon, truck or other vehicle or otherwise within the city before first securing a permit from the city. The permit shall be required in addition to any business license and shall prescribe reasonable limits upon the use thereof. (Ord. 01-1001 §1(part), 2001: prior code §5-2-18)

(Ord. No. 10-1014, § 1, 3-16-2011; Ord. No. 16-1001, § 1(Exh. A), 3-16-2016)



## Chapter 8.20 - SOLID WASTE COLLECTION AND DISPOSAL

### 8.20.010 - Purpose.

It is declared to be the public policy of the city to regulate solid waste management to:

- A. Protect the public health, safety and welfare;
- B. Provide comprehensive solid waste service with rates that are reasonable, but adequate to provide necessary public service, and to prohibit rate preferences and other discriminatory practices;
- C. Provide for resource recovery through the franchisee, and permit the franchisee to cooperate in a county-wide program or any other area-wide program with others franchised by the county, other cities in the county, or by other governmental entities in the Portland metropolitan area to provide solid waste service.

(Ord. 06-1001 (part), 2006)

### 8.20.020 - Definitions.

For the purposes of this chapter:

"City" means the city of Oregon City, Oregon.

"Commission" means the city commission of Oregon City, Oregon.

"Compensation" means and includes:

1. Any type of consideration paid for service, including, but not limited to, rent, and proceeds from resource recovery or recycling and any direct or indirect provision for payment of money, goods, services or benefits by tenants, lessees, occupants or similar persons;
2. The exchange of services between persons, including the hauling of solid waste;
3. The flow of consideration from the person owning or possessing the solid waste to the person providing service.

"Franchisee" means the person granted the franchise by Section 8.20.030 of this chapter.

"Incidental" means occurring as a minor accompaniment, not to exceed removal of a single small volume haul removed per business (as identified by one business license or contractor's license issued by Metro) at any one property, per year.

"Person" means an individual, partnership, association, corporation, trust, firm, estate or other legal entity.

"Resource recovery" means the process of obtaining useful material or energy resources from solid waste. Except as limited by state law and city charter, this includes:

1. "Energy recovery" which means recovery in which all or a part of the solid waste materials are processed to utilize the heat content, or other forms of energy, of or from the material.
2. "Material recovery" which means any process of obtaining from solid waste, by presegregation or otherwise, materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose.

3. "Recycling" which means any process by which solid waste materials are transformed into new products in such manner that the original products may lose their identity. The process includes collection, transportation, storage and transfer of solid waste and placing the solid waste in the stream of commerce for resource recovery.
4. "Reuse" which means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity. Nothing in this definition shall authorize a use not in conformity with the comprehensive plan zoning ordinance or development regulations of the city.

"Service" means the collection, transportation, storage, transfer, disposal of or resource recovery of solid waste, including solid waste management.

"Small volumes" means amount not to exceed 2000 pounds removed in a single haul.

"Solid waste" means:

1. All putrescible and nonputrescible wastes, as defined by ORS 459.005(24), including, but not limited to, garbage, rubbish, refuse, ashes, waste paper, cardboard, grass clippings, compost, scrap metal, glass, storage pallets, equipment and furniture, demolition and construction debris, inoperative vehicles, vehicle parts, except as excluded below, inoperative home or industrial appliances or machinery or parts thereof, manure, vegetable or animal solid and semisolid wastes or infectious wastes, as defined in ORS 459.386(2), but the term does not include:
  - a. Environmentally hazardous wastes, as defined in ORS 466.005;
  - b. Sewer sludge and septic tank and cesspool pumping, chemical toilet waste and other sludge;
  - c. Reusable beverage containers, as defined in ORS 459A.700 through 459A.740;
  - d. Material used for fertilizer or for other productive agricultural operations in growing or harvesting crops and the raising of fowls or animals;
  - e. Lead-acid batteries, as defined and regulated by ORS 459.420 through 459.437;
  - f. Waste tires, as defined and regulated by ORS 459.705 through 459.790;
  - g. Articles kept in a storage area maintained so as to not constitute a safety, health, or fire hazard and screened from public view by means of a solid fence, trees, shrubbery, or other appropriate means;
  - h. Vehicles kept on the premises of a business lawfully engaged in wrecking and junking of vehicles.
2. The fact that materials that would otherwise come within the definition of solid waste may from time to time have value and thus be used or usable does not preclude such materials from this definition.

"Solid waste management" means the prevention or reduction of solid waste; management of the storage, transfer, collection, transportation, treatment, utilization, processing and final disposal of solid waste; resource recovery from solid waste; and facilities used for those activities.

"Source separation" means the separation or setting aside of waste, by the source generator or producer of the waste, for recycling or reuse. Total source separation means the complete separation by the source generator or producer of the waste by type or kind of waste from all other types or kinds of waste. Total source separation requires each type or kind of recyclable material such as newsprint, computer paper, cardboard, glass, ferrous cans and aluminum cans to be distinctly separated into a separate package, container or stack in preparation for collection. For example, newspaper, cardboard,

glass, ferrous cans and waste wood are each placed in a separate container and no two or more recyclables are mixed in the same container.

"Waste" means material that is no longer wanted or usable by the source, the source generator or producer of the material, and the material is to be disposed of or resource-recovered by another person, and includes both source-separated material and nonsource-separated materials.

(Ord. 06-1001 (part), 2006)

(Ord. No. 12-1007, § 1, 9-5-2012)

#### 8.20.030 - Franchise—Granting authority.

- A. Pursuant to the 1963 city code of the city, Chapter 4 of Title VIII, and ORS 459.200, the city does exercise its authority to franchise the provisions of service and solid waste management within the city. The franchise shall be the exclusive right, privilege and franchise to provide service within the city. For the purposes of this franchise, the franchisee shall have the exclusive right to use the public rights-of-way of the city. Except as otherwise provided in this chapter, no other person shall provide, offer to provide, or advertise for the performance of service for any person on any property in the city.
- B. The exclusive right, privilege and franchise to provide service within the city limits of the city is granted to Oregon City Garbage Co., Inc.

(Ord. 06-1001 (part), 2006)

#### 8.20.040 - Franchise—Exceptions.

The exclusive right, privilege, and franchise granted under Section 8.20.030 of this chapter is subject to the following exceptions:

- A. A person may engage in the collection of source-separated materials for recycling or resource recovery, but only for the purpose of raising funds for a charitable, civic, or benevolent activity, under the following conditions:
  - 1. Such activity shall be conducted in accordance with the terms and under the conditions contained in this chapter, regulations adopted hereunder, and the notice submitted to the city, as required.
  - 2. A prior written notice of such activity shall be prepared and signed by the person intending to engage in such activity, or an authorized representative, and delivered to the city, with a copy to the franchisee, which notice shall specify the geographic areas and times in which such activities are intended to take place.
  - 3. Regulations may be adopted to administer these provisions.
- B. A person may transport solid waste, which such person produces, directly to an authorized disposal site or recycling or resource recovery facility. However, the solid waste produced by a tenant, licensee, occupant or person other than the owner of the leased, occupied or licensed premises shall be considered produced by the tenant, licensee, occupant or person and not produced by the landlord or property owner. Therefore, except as provided in this chapter, no person shall provide service for compensation to any tenant, lessee or occupant of any property of such person, and the landlord or property owner shall provide service through the franchisee.

- C. A person may contract with the state or a federal agency to provide service to such agency under a written contract with such agency.
- D. A person may engage in the practice of towing or otherwise removing damaged, discarded or abandoned vehicles or parts thereof, so long as such activity is conducted in compliance with applicable state and local laws.
- E. A person may engage in the practice of pumping, transporting, and disposal of septic tank and cesspool pumpings or other sludge, provided such activity is conducted in compliance with applicable state and local laws.
- F. A person who engages in the occupation of construction contractor for a property owner or tenant in the city and who produces thereby small volumes of solid waste as a result of such work for a property owner or tenant in the city may transport such solid waste in such person's own equipment where the solid waste produced is incidental to the particular job the person is performing.
- G. Collection and transportation of small volumes of solid wastes created in connection with landscaping, gardening, or grounds keeping when the collection and transportation is done by the person employed for that work in such person's own equipment.
- H. A person may collect and dispose of tires if that person has been issued a waste tire carrier permit by DEQ pursuant to ORS 459.705 through 459.790, disposes of tires at a licensed repository as set forth in ORS 459.710(2) and otherwise complies with all legal requirements relating to collection and disposal of tires, DEQ regulations and city and county ordinances.

(Ord. 06-1001 (part), 2006)

(Ord. No. 12-1007, § 2, 9-5-2012)

#### 8.20.050 - Franchise—Term.

Unless grounds exist for suspension, modification or revocation of the solid waste collection franchise under Section 8.20.090 of this chapter, the franchisee shall be considered as a continuing seven-year term. Beginning January 1st of each year, the franchise will be considered renewed for an additional seven-year term, unless at least thirty days prior to January 1st of any year the city notifies the franchisee of intent to terminate the continuing franchise system. Upon the filing of such notice, the franchisee will have a franchise which will terminate on the January 1st which is seven years from the date of the last renewal prior to the notice of termination.

The city may initiate proceeding for suspension, modification, or revocation of the franchise under Section 8.20.090 of this chapter at any time.

(Ord. 06-1001 (part), 2006)

#### 8.20.060 - Franchise—Fee.

In consideration of the franchise granted by this chapter, the franchisee shall pay quarterly to the city a franchise fee equal to four percent of the collected fees for each quarter. The franchise fee shall be due by the twentieth of the month after the quarter ends. End of the quarter shall be on March 31, June 30, September 30 and December 31. There shall be a written report showing the calculation with each payment. Failure to remit timely will incur a ten percent of the amount due penalty if not received by the

last day of the month due and shall incur an interest charge at twelve percent per year from the due date. The city may grant an extension of time to file and avoid both penalties. The extension shall be confirmed in writing and signed by an official of the city. Receipts from fees, penalties, and charges shall be accounted for separately and shall be expended only for the following matters:

- A. Nuisance abatement;
- B. Solid waste services rendered to the city;
- C. Removal of trees, leaves, and brush;
- D. Solid waste programs authorized by the city commission.

(Ord. 06-1001 (part), 2006)

(Ord. No. 15-1001, § 3, 3-18-2015)

#### 8.20.070 - Franchise—Obligations.

A. The franchisee shall:

1. Provide service, as defined in this chapter. All disposals shall be at a site that is in compliance with Chapter 459 and 459A of Oregon Revised Statutes together with the regulations promulgated thereunder. Franchisee shall also observe and comply with all applicable ordinances and regulations of Clackamas County and all federal laws;
2. Maintain, at all times, in force a policy of liability insurance issued by the state, insuring the franchisee for liability for injury to persons for not less than two hundred fifty thousand dollars to any one person, five hundred thousand dollars for injuries arising out of any single occurrence, and five hundred thousand dollars for damage to property. Such policy shall name the city as additional insured and shall contain a provision requiring the insured to notify the city prior to the termination of the insurance coverage. Evidence of such insurance being in force shall be filed with the city manager;
3. Provide the city manager upon request with details concerning the day of the week and approximate hour of service to areas of the city;
4. Provide sufficient collection vehicles, containers, facilities, personnel and finances to provide all types of necessary service and solid waste management service or subcontract with others to provide such service pursuant to Section 8.20.120 of this chapter;
5. Provide that all vehicles used in the collection or transportation of waste shall be equipped with a leakproof metal body of the compactor type. If the franchisee uses a specially designed, motorized local collection vehicle for transporting solid waste over short distances from residential or commercial stops to waiting trucks, the container portion of such vehicle shall be equipped with a cover, adequate to prevent scattering of the load. If any pickup truck or open-bed truck is used by the franchisee, the load shall be covered with an adequate cover to prevent scattering of the load. All vehicles shall be operated in conformity with all ordinances of the city. All vehicles shall be properly licensed, registered and equipped in compliance with the motor vehicle laws of the state;
6. Provide reasonable response to any written complaint on service;
7. Provide the opportunity to recycle in accordance with the Opportunity to Recycle Act, ORS 459A.005 through 459A.085 and 459.250. In addition, the franchisee shall comply with any and

all rules and regulations adopted by the Department of Environmental Quality and the metropolitan service district relating to recycling;

8. Provide that all substances which may be putrid, spoiled or in a decayed or decaying condition or which emit an odor deleterious to the health or the sense of smell shall be transferred into covered containers;
9. Provide that franchisee and its employees shall not engage in any unnecessary trespassing, and that due care shall be exercised to prevent damage to private property, including flowers, shrubs and other plantings by using the regular walks as nearly as practicable while on private property. Care shall also be taken to prevent damage to containers of customers;
10. Provide service to the city, at the request of the city manager, to abate any accumulated solid waste nuisances. Franchisee shall act as an agent of city for this purpose and shall follow city's specific instructions as to the location, nature, extent, and procedure for abating nuisance. The city shall indemnify and hold franchisee harmless from any claim or liability other than liability arising from franchisee's negligence arising from franchisee's abatement of the nuisance while following city's instructions. Franchisee shall be paid its established rate for providing the service.

B. The franchisee shall not:

1. Insofar as possible, give any rate preference to any person, locality or type of solid waste stored, collected, transported, disposed of or resource-recovered. Franchisee may have various classes of rates based upon length of haul, type or quantity of solid waste handled, equipment, and manpower necessary to perform the service and location of customers, so long as rates are reasonably comparable;
2. Transfer this franchise or any portion thereof to other persons without the prior written approval of the commission. Such consent shall not be unreasonably withheld.

(Ord. 06-1001 (part), 2006)

8.20.080 - Supervision.

Service provided under this franchise shall be under the supervision of the city manager. Franchisee shall, at reasonable time, permit inspection of its equipment, facilities, personnel and records as they relate to solid waste management service.

(Ord. 06-1001 (part), 2006)

8.20.090 - Franchise—Suspension, modification or revocation.

- A. Wilful refusal to provide adequate service or otherwise comply with the provisions of this chapter after written notification and a reasonable opportunity to comply shall be grounds for suspension, modification or revocation of the franchise.
- B. After written notice from the commission specifying the grounds that exist for suspension, modification or revocation of the franchise, the franchisee shall have sixty days from the date of receiving notice specifying the nature and details by which its performance must be improved or changed to bring about such change. If the commission finds that such improvement or change has not been made, then the franchisee shall be notified in writing and shall have thirty days from receipt of the notice in which to request, in writing, a public hearing before the commission. At such hearing,



the franchisee and other interested persons shall have opportunity to present oral, written or documentary evidence to the commission. Any modification or revocation of the franchise shall be based upon findings of fact. The decision of the commission shall be reviewable by the circuit court of the state of Oregon for the county of Clackamas by writ of review only.

(Ord. 06-1001 (part), 2006)

#### 8.20.100 - Interruption of service.

In the event the commission determines that a failure of service or threatened failure of service would result in creation of an immediate and serious health hazard or serious public nuisance, the commission may, after a minimum of twenty-four hours prior written notice to franchisee and a public hearing if franchisee requests it, authorize another person to temporarily provide the service as necessary for compensation or to use and operate the land, facilities or equipment of the franchisee. The commission shall return any seized property and business upon abatement of the actual or threatened interruption of service.

(Ord. 06-1001 (part), 2006)

#### 8.20.110 - Termination of service.

The franchisee shall not terminate service to all or a portion of its customers, except:

- A. When temporary weather conditions render providing service unduly hazardous to persons providing service or when termination is due to accidents or casualties caused by an act of God or a public enemy;
- B. When street or road access is blocked and there is no readily available alternate route to serve all or a portion of its customers;
- C. When a customer has not paid for service provided after a regular billing and after seven days' written notice to pay;
- D. After thirty days' written notice is given to the commission and to affected customers and written approval is obtained from the commission; or
- E. Upon the expiration of the term of this franchise.

(Ord. 06-1001 (part), 2006)

#### 8.20.120 - Subcontracts.

The franchisee may subcontract with others to provide a portion of the services when the franchisee does not have the necessary equipment for such service. Such a subcontract shall not relieve the franchisee of responsibility for providing and maintaining service and for complying with this chapter.

(Ord. 06-1001 (part), 2006)

#### 8.20.130 - Rates.

The rates for service under the ordinance codified in this chapter shall be those rates currently in effect upon the adoption of the ordinance codified in this chapter unless modified by the commission. The rates shall remain in effect until a change in rates is approved by the commission. The commission shall establish and, as considered necessary from time to time, change rates by resolution. In determining the appropriate rate to be charged by the franchisee, the commission shall consider all appropriate factors, including the following:

- A. The cost of performing the service provided by the franchisee;
- B. The anticipated increase in the cost of providing this service;
- C. The need for equipment replacement and the need for additional equipment to meet service needs; compliance with federal, state, local law, ordinances and regulations; or technological change;
- D. The investment of the franchisee and the value of the business and the necessity that the franchisee has a reasonable rate of return;
- E. The rates charged in other cities of similar size within other relevant jurisdictions for similar service in comparable service areas;
- F. The public interest in assuring reasonable rates to enable the franchisee to provide efficient and beneficial service to the residents and other users of the service;
- G. The local wage scales, cost of management facilities and disposal fees or charges;
- H. Any profit or cost savings resulting from recycling, and any additional costs resulting from recycling.

(Ord. 06-1001 (part), 2006)

#### 8.20.140 - Public responsibility.

- A. The franchisee, the city and the public shall comply with the provisions of state law, including, but not limited to, ORS Chapters 459 and 459A, ORS Chapter 654 (Employment Safety and Health), and ORS Chapter 656 (Workers' Compensation) as well as the regulations promulgated pursuant thereto by the Department of Environmental Quality, the Workers' Compensation Department, and the State Accident Insurance Fund. The rules for the administration of the Oregon Safe Employment Act and the Oregon Occupational Safety and Health Code shall be complied with. The following requirements shall pertain to service under this chapter:
  - 1. Garbage, yard debris and recycling receptacles shall be of standard industry design, convenient for use by the customers and shall comply with applicable federal and state occupational health, safety and other requirements. Sunken refuse cans or containers shall be prohibited.
  - 2. To protect against injury to employees of the franchisee and to protect against rodent and fire danger, cans shall be rigid and composed of materials that resist splitting or cracking from changes in weather conditions.
  - 3. The customer shall provide safe access to the pickup point so as not to jeopardize the persons or equipment supplying service or the motoring public.
- B. Residential customers shall place the container to be emptied at curbside. For purposes of this section, including recycling bins and yard debris containers, within five feet from the location designated by the franchisee at the edge of the street, alleyway, or other roadway regularly used by the franchisee to collect solid waste. Notwithstanding this requirement, the franchisee shall collect

solid waste from the side, or back yard, to which residential customers shall give the franchisee unobstructed and safe access, of those residential customers who qualify as elderly, disabled or handicapped, as defined by the city, or who agree to pay a higher rate for noncurbside collection.

- C. Stationary compactors for handling solid waste shall comply with applicable federal and state safety regulations. No such compactor shall be loaded so as to exceed the safe loading design limit or operation limit of the collection vehicles used by the franchisee. A person who wishes services for a compactor shall, prior to acquisition of such compactor, inquire of the franchisee as to compatibility with franchisee's equipment or equipment which the franchisee is willing to acquire.
- D. Putrescible solid waste shall be removed from the premises of a customer at regular intervals not to exceed seven days in accordance with Oregon Administrative Rules 340-61-070.
- E. Except as otherwise expressly provided in this chapter, any person who receives service shall be responsible for payment of such service. The property owner of a leased premises shall also be responsible for payment of such service if the tenant receiving the service does not pay for the service. In its discretion, the franchisee shall be entitled to adopt a uniform and reasonable policy to require a cash deposit or advance payment for any service to property occupied by nonowners.
- F. In the event of termination for nonpayment, the franchisee may require advance payment in the future before beginning service to that customer.

(Ord. 06-1001 (part), 2006)

#### 8.20.150 - Construction.

Any finding by any court of competent jurisdiction that any portion of this chapter is unconstitutional or invalid shall not invalidate any other provision of this chapter.

(Ord. 06-1001 (part), 2006)

#### 8.20.160 - Prohibited actions.

No person shall:

- A. Place or dump or unreasonably accumulate solid waste or waste on private property or upon any of the streets, alleys or public property belonging to the city;
- B. Without the permission of the owner or generator of recyclable material, take recyclable materials set out to be collected by a person authorized by the city to provide collection service for that recyclable material, except in accordance with this chapter;
- C. Remove any recyclable material from a container, box, collection vehicle, depot or other receptacle for the accumulation or storage of recyclable materials without permission of the owner of the receptacle and the franchisee;
- D. Without the permission of the owner or generator of recyclable material and the franchisee, take recyclable materials set out to be collected by a person authorized by the city to provide collection service for that recyclable material, except in accordance with this chapter;
- E. Mix source-separated recyclable material with solid waste in any vehicle, box, container, or receptacle used in solid waste collection or disposal, except as permitted by the city or the franchisee or in accordance with federal law.

(Ord. 06-1001 (part), 2006)

8.20.170 - Enforcement.

The city may enforce the provisions of this chapter by administrative or civil action as it may deem necessary to obtain compliance with this chapter.

(Ord. 06-1001 (part), 2006)

8.20.180 - Storage of solid waste.

Putrescible solid waste shall be stored in rigid watertight containers, and may not be stored for longer than a seven-day period.

(Ord. 06-1001 (part), 2006)

8.20.190 - Solid waste—Removal.

It is the duty of the owner or person in charge of any real property on which solid waste or waste is located to remove and legally dispose of such waste.

(Ord. 06-1001 (part), 2006)

8.20.200 - Nuisance declared.

Any of the aforementioned things existing where there is a duty to remove the same shall constitute a nuisance.

(Ord. 06-1001 (part), 2006)

8.20.210 - Notice to remove.

Where a nuisance appears to exist, a notice in substantially the following form shall be mailed by the city recorder to the owner and person in charge of the real property at their last known address:

NOTICE TO REMOVE NUISANCE

To the owner or person in charge of the following (here insert description of property by lot or by street and number) in the City of Oregon City, Oregon:  
You are hereby notified to remove and abate the nuisance existing on \_\_\_\_\_

\_\_\_\_\_ within ten (10) days of this Notice, which nuisance consists of (here give a general description of the nuisance) or show to the Commission of the City of Oregon City that a nuisance does not exist. In case of failure to remove said nuisance within the stated time, the City of Oregon City will cause the same to be abated and costs assessed against the City herein described.

Date: (month, day and year)	_____
	City Recorder

A mistake in the name of the owner or person in charge shall not render the notice or following proceedings void.

A certificate of mailing stating the date and place of mailing shall be filed in the office of the city recorder.

(Ord. 06-1001 (part), 2006)

#### 8.20.220 - Abatement—Hearing.

Within ten days after mailing of the notice, the owner or person in charge of such property shall remove and abate the nuisance or file written request for hearing with the commission. Thereupon, the commission shall set a time for hearing where the person may appear and the commission shall thereupon determine whether or not the nuisance exists. If it be determined by the commission that the nuisance does exist, the city manager shall proceed to abate the nuisance in the manner provided for in Section 8.20.230 of this chapter.

(Ord. 06-1001 (part), 2006)

#### 8.20.230 - Abatement by city—Lien.

If the owner or person in charge of the property shall fail to remove the nuisance within ten days from the date of mailing the notice or has requested a hearing and the commission had determined a nuisance exists, the city manager shall cause the nuisance to be removed and abated. The cost of removal and abatement, plus twenty-five percent thereof for administrative overhead shall constitute the cost of removal and abatement. The city recorder shall forward to the owner a notice setting forth the expense incurred, stating that such expense will be assessed against the real property involved and that any objections must be filed in writing with the city recorder within twenty days of the date of mailing. If such objections be filed, the commission shall set a date for hearing and determine the amount of assessment. The expense so incurred or determined upon hearing shall then be assessed by ordinance, entered in the city lien docket, and shall be collected and foreclosed as in the manner for collection of city liens for street and sewer improvements. All such liens shall bear interest at the legal rate from the date of entry in the lien docket.

(Ord. 06-1001 (part), 2006)

#### 8.20.240 - Violation—Penalty.

Any act or omission in violation of this chapter shall be deemed a nuisance. Violation of any provision of this chapter shall constitute a civil infraction, subject to the code enforcement procedures of Chapter 1.20 of this Code.

(Ord. 06-1001 (part), 2006)