

## **ORDINANCE NO. 696**

**AN ORDINANCE RELATING TO GARBAGE COLLECTION AND DISPOSAL, AND TO FRANCHISING OF SOLID WASTE COLLECTION, DISPOSAL, RECYCLING AND TRANSFER; AMENDING THE CODE RELATING TO NUISANCES; AND REPEALING CODE CHAPTER 8.16 AND RESOLUTION NOS. 661 AND 687.**

**The City of Scappoose ordains as follows:**

**Section 1. Title.** This Ordinance shall be referred to as the City of Scappoose Solid Waste Management Ordinance.

**Section 2. Solid Waste Advisory Committee.** A Solid Waste Advisory Committee is hereby established, and shall be subject to the following:

**A. Duties of the Solid Waste Advisory Committee.** The Committee shall have the duty to advise the Council on the development and implementation of the City's Solid Waste Management Plan, and any necessary regulations or requirements by the State of Oregon Department of Environmental Quality (DEQ), and to make an annual recommendation to the Budget Committee for City Council approval regarding the financing of the implementation of said Plan. The Committee shall:

1. Develop and periodically review a Solid Waste Management Plan including reduction of solid waste, reuse, recycling, local or regional disposal sites and necessary systems and facilities to implement the plan for review, adoption or modification by the Council.
2. Develop and recommend to the Council for adoption minimum standards and regulations for the operation of recycling centers including but not limited to franchising or licensing requirements.
3. Review any rate increases requested by the City's franchised garbage hauler and review the franchise at the time of renewal or if amendment is requested.
4. Perform such other duties as directed by the Council that they may find necessary to effectively carry out the purposes of this Ordinance.

**B. Membership.** Membership in the Solid Waste Advisory Committee shall consist of six (6) members appointed by the Mayor with the consent of the City Council in accordance with Scappoose Municipal Code 2.04.080. Any vacancy shall be filled by appointment by the Mayor, with the consent of the City Council, for the unexpired term of the predecessor in office. All members of the Committee shall be registered voters and all except the representative of the Franchisee and one member-at-large shall be residents of the City. The membership of the Committee shall be comprised of one City Council member, one City Planning Commissioner, one Budget Committee member, one representative of the Franchisee, and two citizen-at-large

members. Committee members shall receive no compensation. A representative of the DEQ shall serve as an ex-officio member to advise and assist, but shall not vote.

**C. Term of Office.** Committee members shall be appointed for a term of two (2) years, except in cases where such appointment is made to fill a vacancy. City Councilor, Planning Commissioner and Budget Committee member terms shall expire at the same time as their terms on the Council, Planning Commission or Budget Committee if those terms expire before their terms on the Solid Waste Advisory Committee. A Committee member may be removed by the City Council. A member who is absent from three (3) consecutive meetings shall be removed for non-performance of duty.

**D. Officers.** At its first meeting, the Committee shall elect a Chair and Vice-Chair who shall serve at the pleasure of the Solid Waste Advisor Committee. Annually, the Committee shall hold an election for Chair and Vice-Chair. A member may serve as Chair for no more than two (2) consecutive terms.

**E. Staff Support.** The City Manager and City Recorder shall serve as staff to the Committee and shall be entitled to propose and recommend items for consideration to the Committee.

**F. Meetings and Rules.** A majority of the Committee shall constitute a quorum. The Committee shall make recommendations to the City Council consistent with the laws of the State of Oregon, and with the Charter and ordinances of the City of Scappoose. The Committee shall meet at such times and places as may be fixed by the Committee, but no less than once each quarter. The Solid Waste Advisory Committee shall at all times abide by the provisions of the Oregon Public Meeting Law.

**Section 3. Purpose and Policy.** To protect the health, safety, and welfare of the people of the City of Scappoose and to provide a coordinated solid waste management program, it is declared to be the policy of the City to regulate solid waste management by:

**A.** Providing for safe and sanitary accumulation, storage, collection, transportation, disposal, and utilization of wastes, solid wastes, and recyclable materials.

**B.** Prohibiting accumulation of wastes or solid wastes on public or private property in such a manner as to create a nuisance, a hazard to health or a condition of unsightliness and to provide for the abatement of such conditions where found.

**C.** Providing a coordinated City Solid Waste Management Plan in cooperation with federal, state and local agencies responsible for the prevention, control or abatement of air, water and ground pollution and prevention of litter.

**D.** Encouraging research, studies, surveys and demonstration projects on developing more sanitary, efficient and economical solid waste management systems.

**E.** Encouraging utilization of the capabilities and expertise of private industry in accomplishing the purposes of this Ordinance.

F. Promoting energy and resource conservation through reduction, reuse, recycling and resource recovery.

#### **Section 4. Definitions.**

For the purpose of this Ordinance, words used in the present tense include the future, the singular number includes the plural, the word “shall” is mandatory and not directory, and the term “this Ordinance” shall be deemed to include all amendments hereafter made to this Ordinance. The following terms are defined as follows:

- A. **CITY.** City of Scappoose.
- B. **COLLECTION SERVICE.** Collection and transportation of solid waste from its source to a transfer station, resource recovery facility, or disposal site by any person for compensation.
- C. **COLLECTION VEHICLE.** Any vehicle used to collect or transport solid waste.
- D. **COMMITTEE.** The Solid Waste Advisory Committee established by Council resolution.
- E. **COMPENSATION.** Any direct or indirect payment made by the source of generation or person last using a source-separated material or discarded solid waste.
- F. **CONSTRUCTION/DEMOLITION.** Shall include all inert materials, not source-separated for recycling, from residential, commercial, or industrial construction or demolition, including but not limited to asphalt, concrete, glass, metals, roofing, and sheet rock.
- G. **COUNCIL.** The City Council of the City of Scappoose.
- H. **DAYS.** Shall mean calendar days.
- I. **DROP BOX.** A device of not less than ten (10) cubic yards which can be placed, picked up and hauled away by truck.
- J. **DEQ.** Oregon State Department of Environmental Quality.
- K. **DISPOSE OR DISPOSAL.** Includes deposit, accumulation, storage, collection, transportation and disposal of solid wastes.
- L. **DISPOSAL SITE.** The Columbia City Transfer Station for the disposal of solid waste, or other site designated by the Council for waste disposal.
- M. **FORCE MAJEURE.** Shall mean acts of God, natural disaster, landslides, lightning, forest fires, storms, floods, freezing, earthquakes, civil disturbances, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, public riots, breakage, explosions, materials or equipment shortage, or damage to or destruction of the property,

equipment, or vehicles of Franchisee as a result of events which are not reasonably within the control of Franchisee.

**N. FRANCHISE.** (Collection, Disposal, or Recycling). A franchise to provide service issued by the Council pursuant to this Ordinance.

**O. FRANCHISEE.** Shall mean the grantee of a franchise.

**P. HAZARDOUS WASTE.** Solid waste that may, by itself or in combination with other solid wastes, be infectious, explosive, poisonous, caustic or toxic or otherwise dangerous or injurious to human, plant or animal life. Hazardous Waste shall not include incidental household hazardous waste or small quantity generator waste which is co-mingled with solid waste.

**Q. HOUSEHOLD HAZARDOUS WASTE.** Any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household, including but not limited to some cleaners, solvents, pesticides, organics, paints, and automotive fluids.

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

**S. INOPERABLE VEHICLE AND/OR ABANDONED VEHICLE.** A vehicle which has been left on public or private property fifteen (15) days or more and has been extensively damaged, vandalized or stripped, including but not limited to missing wheels, tires, motor or transmission. This includes junk or scrapped vehicles on private property, with the exception of wrecking yards and private residential driveways, visible from the public road.

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

**U. PUTRESCIBLE MATERIAL.** Organic materials that can decompose and may give rise to foul smelling or otherwise offensive products.

**V. RATE SCHEDULE.** Shall mean the schedule of rates to be charged by a Franchisee to persons receiving collection and/or recycling services, which schedule shall be set by the City and amended from time to time by resolution.

**W. RECYCLABLE MATERIAL.** Any material or group of materials that can be collected and sold for recycling at a cost equal to or less than the cost of collection and disposal of the same material.

**X. RESOURCE RECOVERY.** The process of obtaining useful material or energy resources from solid waste and includes 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.

**Y. REUSE.** The return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

**Z. SALVAGE.** A utilization process involving the separation or collection of reusable solid or liquid wastes for resale or the utilization business of separating or collecting and reclaiming reusable solid or liquid wastes, and the term includes but is not limited to the activities of secondhand dealers, junk dealers, and salvage operators; however, the term does not include:

1. The business of dismantling motor vehicles licensed pursuant to ORS 481.345.
2. Activities for which certificates are required by ORS 433.405 to 433.680 dealing with furniture and bedding.

**AA. SALVAGE SERVICE.** Collection, transportation and storage of source-separated materials by any person for compensation.

**BB. SERVICE AREA.** The geographical area in which solid waste collection service, other than operation of a disposal site, is provided by any person.

**CC. SOLID WASTE.** All useless or discarded putrescible and nonputrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard; useless or discarded commercial industrial, demolition and construction materials; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; vegetable or animal solid and semi-solid materials; dead animals and infectious waste as defined in ORS 459.386.

**DD. SOLID WASTE COLLECTION SERVICE.** The collection, transportation or disposal of solid wastes or salvage material.

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

**FF. SOURCE-SEPARATION OR SEPARATED.** The separation of reusable or recyclable materials from solid waste by the person who last used the separated material. For purposes of this Ordinance, source-separated material excludes industrially or commercially produced salvage materials not normally handled by a franchised collector (*i.e.*, fats for rendering, chemical by-products, wood products, wood waste, pulp sludge, etc.).

**GG. SPECIAL WASTE.** Shall mean acceptable waste resulting from an industrial, agricultural, manufacturing, demolition or construction operation or process; or waste which requires special handling or extraordinary management at the Transfer Station, including, without limitation, asbestos, contaminated soil, non-hazardous contaminated material, batteries, sewage sludge, septic tank and cesspool pumpings or other sludge, containerized ash, box springs, mattresses, stumps, wire, tires; or bulk tanker waste, waste from pollution control processes, waste containing free liquids; or any other waste of a character that is significantly different from general mixed residential Solid Waste and that is produced by the commercial,

industrial or agricultural operations of a single generator in sufficient quantities to be handled or disposed of by a Franchisee under a specially negotiated contract.

**HH. TRANSFER STATIONS.** A fixed or mobile facility normally used as an adjunct of a Solid Waste Management System between a collection route and disposal site, including but not limited to a stationary compaction drop box facility, processing center, railroad, gondola, barge or facility that accepts solid waste from persons for the purpose of removal of the solid waste to a disposal site or utilization center.

**II. TRASH.** Any small amount of material normally considered waste after consumption of the primary product, such as food wrappers, cigarette butts and packages, beverage containers, or packaging.

**JJ. UNACCEPTABLE WASTE.** Any and all waste that is either prohibited from being received at the Columbia County Transfer Station or other legal disposal site by State, Federal or Local law, regulation, rule, code, Ordinance, order, permit or permit condition, or hazardous waste as defined above.

**KK. UTILIZATION.** Utilization of waste through recycling, reuse, salvage, resource recovery, energy recovery or land filling for reclamation, habitation or rehabilitation of land.

**LL. WASTE.** Useless or discarded materials.

## **Section 5. Administration.**

**A.** The City Manager or his designee shall be responsible for the enforcement of this Ordinance. In order to carry out the duties imposed by this Ordinance, the City Manager shall enter, or authorize personnel to enter, on the premises of any person regulated by this Ordinance at reasonable times and in a reasonable manner to determine compliance with this Ordinance and regulations promulgated pursuant thereto.

**B.** The service area covered by this agreement shall be the present and future area within the established City limits of the City and any property outside the City limits which may be owned by the City.

**C.** This Ordinance shall not apply to:

1. Areas lying outside the limits of the City.
2. Federal, state or local agencies that collect, store, transport or dispose of such wastes or solid wastes of those persons who contract with such agencies to perform service, but only as to the terms for collection or disposal service under such contract.

**D.** This Ordinance shall not apply to agricultural operations, growing or harvesting of crops, or the raising of fowls or animals.

E. Citizens within the City may collect and haul on City streets garbage produced by that person and immediate family. Such hauling shall be done in such a manner as to prevent leakage or littering of City streets.

F. Upon its own motion or upon recommendations of the Committee, the Council may adopt ordinances, resolutions or orders regulating solid waste management or implementing this Ordinance. Such regulations shall not conflict with Chapter 459 and 459A of the Oregon Revised Statutes and rules promulgated pursuant thereto.

**Section 6. Service In Cases Of Annexation.** In the event of an annexation by the City, franchise holders affected by the boundary change shall have the remainder of the current billing cycle and the following billing cycle to transfer each affected customer account to the Franchisee serving the area.

**Section 7. Use of Compactors.**

A. The use of an on-site solid waste compactor, at multi-family developments or commercial, industrial, or institutional establishments, whereby the owners, management, or their employees transport on-site containers and empty their contents into the compactor, shall not be used without a City permit from the City Manager.

B. Such compactor and containers shall be compatible with the Franchisee's equipment. The cost of retrofitting any collection equipment shall be the responsibility of the owners of the compactor.

C. All manufacturers' standards for proper use and maintenance of said equipment shall be followed. In addition, the weight of said equipment and its contents when transported for disposal shall not exceed the legal weight limits of state and local laws or the Collection Service Franchisee's equipment. Any costs associated with overweight violations on public roadways, including the costs of citations and down time, shall be the responsibility of the development owners, management, their employees or agents.

D. No on-site nuisance conditions shall be created as a result of infrequent container or compactor servicing. The area around the compactor shall be kept free of solid waste and debris and be washed down on a regular basis.

E. The compactor and container location and the site development shall comply with Scappoose Municipal Code Chapter 17 and the Building and Structural Specialty Codes. All sites shall meet the accessibility requirements of the Collection Service Franchisee.

F. An on-site recycling program, approved by the City Manager, shall be developed and implemented concurrent with the use of an on-site compactor.

**Section 8. Recycling and Resource Recovery.**

A. All City residents shall be provided the opportunity to recycle as required by ORS 459A.005. The City shall provide, either directly or through agreement with a franchise

service provider, a recycling program that meets the requirements of ORS 459A.010 and the Scappoose Recycling Plan adopted by Resolution 704, or as amended.

**B.** In addition to the basic elements required by ORS 459A.010, the opportunity to recycle shall include multi-family residential collection, commercial and institutional recycling, and expanded education and promotion as detailed by OAR 340-090-00300(3) and the Scappoose Recycling Plan adopted by Resolution 704.

**C.** Garbage service franchise holders shall include, as part of basic residential garbage service, at least once per month curb side recycling and education and promotion which meets the minimum requirements of ORS 459A.005 and 459A.010. Recycling bins shall be provided by and remain the property of the Franchisee and the Scappoose Recycling Plan adopted by Resolution 704, or as amended.

#### **Section 9. Limitations and Requirements for Garbage Containers.**

**A.** Residential garbage cans and recycling bins shall be placed curbside for collection unless arrangements have been made with the Franchisee for door service.

**B.** No garbage can, cart or container for residential service shall be located behind any locked or latched door, gate or inside of any building or be obstructed by or within five (5) feet of any parked vehicle.

**C.** No garbage can, cart or container designed for mechanical pickup shall exceed safe loading weights or volumes as established by the Franchisee to protect service workers, the customer, the public and the collection equipment.

**D.** No garbage can or container designed for manual pickup shall exceed thirty-two (32) gallons in size or sixty (60) pounds in loaded weight. Such containers shall be made of metal or durable plastic and be rigid, rodent proof, not subject to cracking or splitting, and have proper handholds and lids.

#### **Section 10. Storage, Transport, and Disposal of Self-Generated Waste or Solid Waste.**

**A.** No person shall store putrescible material for a period of more than fourteen (14) days, and no business or commercial operation shall store putrescible material for a period of more than seven (7) days.

**B.** No person shall store waste or solid waste in a manner which creates offensive odors, unsightliness, or which can be seen from any public road.

**C.** No person shall dispose, or place for disposal, any sharps, infectious waste, paints, hazardous materials, flammable or corrosive materials, coals, hot ash, or other material prohibited by ORS 459.

**D.** No person shall bury waste or solid waste.



E. No person shall burn putrescible material, chemicals, solvents, plastics, rubber, or any other material prohibited by ORS 459.

F. Materials such as rubbish and refuse, brush, leaves, tree cuttings and other debris placed for manual pickup and collection shall be in securely-tied bundles, sacks, plastic bags or other receptacles and so bundled, tied or contained as to not exceed sixty (60) pounds in weight or three (3) feet in length or diameter.

G. No unauthorized person shall place material in or remove material from a solid waste collection or recycling container without permission of the owner of the container.

H. Recyclables, with the exception of cardboard, must be placed in bins or containers for collection. Bins or containers supplied by the Franchisee remain the property of the Franchisee and the customer shall be liable for the cost of repair or replacement for damage beyond normal wear and tear.

#### **Section 11. Collection of Household Hazardous Materials.**

A. No person shall dispose, or place for disposal, any household hazardous waste prohibited by ORS 459.411. Such prohibited household hazardous waste includes, but is not limited to, paints, flammable material or solvents, insecticides, garden chemicals including organics and phosphide, petroleum products, acid bases, ammunition, explosives, pharmaceuticals, and pool chemicals. For the purposes of this section, prohibited household hazardous waste includes waste generated by conditionally exempt small quantity generators.

B. The City shall provide information and educational materials on the alternatives for the management and use of products that lead to the generation of hazardous waste, and methods of reusing, recycling, and disposing of household hazardous waste.

C. The City shall make every effort to provide residents and small quantity generators with hazardous waste disposal opportunities. Consideration shall be given to community need, funding, and disposal options available to the general public from other sources. Joint ventures with business and industry and the Department of Environmental Quality for the collection of household hazardous waste shall be encouraged.

#### **Section 12. Disaster and Emergency Collection.**

A. The City shall designate a location to receive disaster debris and solid waste in the event a natural or technological disaster prevents normal collection service. This site shall be utilized only during an emergency declared by the Council. The site shall be open to all City residents at no charge for the duration of the declared emergency. After normal solid waste collection is resumed, the site shall be utilized for disaster debris only. The site shall be maintained for a maximum of sixty (60) days after the disaster is officially declared over.

B. For the purpose of federal assistance during a declared emergency, the site designated for the collection of disaster debris shall be considered "curbside disposal," provided the property owner delivers or causes the delivery of his own debris from his own property.

### **Section 13. Unauthorized Dumping Prohibited.**

A. No person shall dispose of waste, solid waste, or rubbish on any land subject to this Ordinance of which he is not the owner or occupant except at disposal sites which may be used by the public.

B. No person shall use or permit to be used any land within the City as a public or private disposal site without approval of the Planning Commission and the City Council in compliance with Scappoose Municipal Code Title 17.

C. Nothing in this section shall prohibit the accumulation or temporary storage of solid waste for fourteen (14) days or less in receptacles provided for that purpose in compliance with Chapter 459 of the Oregon Revised Statutes, and this Ordinance and rules and regulations promulgated thereunder.

### **Section 14. Littering.**

A. No person shall deposit any waste, solid waste, or trash on any property of which he is not the owner.

B. No person shall cause or allow any waste, solid waste, or trash to exit from a vehicle in their control while said vehicle is in operation or upon any road, public or private.

C. No person who operates a vehicle transporting waste, solid waste, or any other material to a disposal site shall permit the vehicle to be operated without a cover or permit material to be thrown from the vehicle. Vehicles transporting heavy, inert materials such as lumber, construction debris, scrap metals, or other similar material which can reasonably be shown to pose little risk of dispersing need not be covered, but must be secured to prevent shifting. For purposes of this subsection, a cover constitutes a tarp, netting, or a tight fitting cover on cans, bins, or containers.

**Section 15. Incorporation Of Statutes.** ORS 164.775, 164.785 and 164.805 are incorporated herein as though the same were spelled out here in their entirety. Any action conducted or prohibited by those statutes are also prohibited within this City by this Ordinance.

**Section 16. Rebuttable Presumption Established.** A name found on various items in a deposit of rubbish or other solid waste placed on land or in water in violation of ORS 164.775, 164.785 and 164.805, incorporated herein constitutes rebuttable evidence that the person whose name appears on the items has violated this Ordinance. However, the rebuttable presumption created by this section exists only when a name on items denotes ownership of the items, such as the name of an addressee on an envelope.

**Section 17. Abatement and Violations.** Any violation of this Ordinance shall be considered creating a nuisance and constitute an infraction subject to abatement as nuisances under Scappoose Municipal Code Chapter 8.20.

**Section 18. Solid Waste Franchises.**

A. It shall be unlawful for any person to store, collect, transport, or dispose of any waste, solid waste, or offer to provide or advertise for the performance of such service within the City of Scappoose, Oregon unless such person obtains a franchise in accordance with the applicable provisions of this Ordinance.

B. It shall be unlawful for any person to create or maintain a disposal site within the City of Scappoose, Oregon unless such person obtains a franchise in accordance with the applicable provisions of this Ordinance.

C. It shall be unlawful for any person to create or maintain a transfer station within the City of Scappoose, Oregon unless such person obtains a franchise in accordance with the applicable provisions of this Ordinance.

D. This section does not apply to the following:

1. Residential property owners or renters transporting self-generated household waste or solid waste to an approved disposal site, and small business owners with less than three (3) employees.
2. The collection, transportation and reuse of repairable or cleanable discards by private charitable organizations regularly engaged in such business or activity, including but not limited to the Salvation Army, St. Vincent De Paul, Goodwill and similar organizations.
3. The collection, transportation, and reuse or recycling of separated recyclable materials or the operation of a collection center or drop-off site for recyclable materials by a religious, benevolent, or fraternal organization provided that:
  - a. The organization was not organized for, nor is operated for, any solid waste management purpose, and
  - b. The organization is using the activity for fund raising.
4. The generator, producer or source who transports and disposes of solid waste created as an incidental part of regularly carrying on the business of auto dismantling, janitorial service, gardening or landscaping service. "Janitorial service" does not include primarily or solely accumulating or collecting solid wastes created, generated or produced by a property owner or occupant.
5. The pumping, collecting, transportation and disposal of sewage sludge or septic tank or chemical toilet pumpings.

## **Section 19. Applications For Franchises.**

A. Applications for franchises shall be on forms provided by the City Manager. In addition to information required on the forms, the Council may require the filing of special guarantees and indemnities, and any additional information it deems necessary to insure compliance with this Ordinance.

1. Applicants for collection franchises shall state the types of service to be provided, and shall supply information required to determine compliance with this Ordinance.
2. Applicants for disposal franchises shall file a duplicate copy of the information required by the Department of Environmental Quality pursuant to Chapter 459, Oregon Revised Statutes.
3. Applicants for transfer station franchises shall file a duplicate copy of the information required by the Department of Environmental Quality pursuant to Chapter 459, Oregon Revised Statutes.

**B.** The applicant shall provide the Council with information sufficient to demonstrate that:

1. The Franchisee has sufficient collection vehicles, equipment, land, facilities and personnel to meet the standards established by this Ordinance and Chapter 459 of the Oregon Revised Statutes and regulations or rules promulgated thereunder.
2. The Franchisee has in force public liability insurance in the amount of not less than \$100,000 per person and \$500,000 per accident for bodily injury, and not less than \$100,000 for property damage, which shall be evidenced by a certificate of insurance.
3. The Franchisee has sufficient experience in properly providing service of a comparable quality and quantity to insure compliance with this Ordinance, and regulations promulgated thereunder and any franchise issued.

**C.** The Council may require the applicant to submit a corporate surety bond in the amount of \$5,000 or 1/12 the estimated gross revenue to be derived from service annually, whichever is greater, guaranteeing full and faithful performance by the applicant of the duties and obligations of a Franchisee under this Ordinance. If the applicant is applying for both a disposal franchise and a collection franchise, the Council may permit the applicant to provide a single bond covering all such performance.

**D.** Applicants shall specify the nature, type and extent of service to be provided, solid wastes that will not be accepted for collection or disposal, and any special requirements for the handling of hazardous wastes.

**E.** Applicants shall comply with all requirements of Scappoose Municipal Code Chapter 17 for all land use actions relating to the requested operation prior to the issuance of a franchise.

**F.** In any franchise, the Franchisee shall agree to defend and indemnify the City and its officers and employees from any claims, suits or actions arising from activities of the Franchisee.

**Section 20. Existing Disposal, Collection And Transfer Station Operators.** A franchise operating under a current franchise agreement and providing service on the effective date of this Ordinance, shall continue under the existing franchise agreement until expiration thereof.

**Section 21. Specific Collection Franchise Requirements.**

A. An applicant for collection franchise shall provide proof to the satisfaction of the Council that:

1. The Franchisee will use disposal sites authorized by the Council.
2. The Franchisee will have available on the first day of service, and maintain throughout the franchise term, sufficient collection vehicles, containers or other equipment necessary to provide such service.
3. The Franchisee shall maintain an office and telephone which is within the local calling district where service may be applied for and complaints can be made. It shall have a responsible person in charge during collection hours, and shall be open during normal business hours. A message service shall be available during lunch periods and after normal business hours.

**Section 22. Specific Disposal Franchise Requirements.**

A. An applicant for a disposal franchise shall submit to the City Manager a duplicate of the information submitted to the Department of Environmental Quality on such site under Chapter 459 of the Oregon Revised Statutes and rules promulgated thereunder.

B. Each applicant shall supply a plan for rehabilitation and use of the site after disposal has been terminated and such use shall be a use permitted within the zone in which such land is located. Such plan shall be prepared in accordance with the requirements of Scappoose Municipal Code Chapter 17.120, Site Development Review.

C. Where the land upon which a disposal site would be located is privately owned, the owner of the land and the franchise applicant shall, on forms furnished by the City Manager, jointly and severally agree to accept, to be responsible for, or to be liable for:

1. The entry upon the subject premises by persons designated to administer this Ordinance to determine compliance with this Ordinance and performance of the obligations of the Franchisee and the land owner.
2. Proper establishment, maintenance and operation of the disposal site as required by this Ordinance and applicable provisions of Chapter 459 of the Oregon Revised Statutes and rules promulgated thereunder and other laws or City ordinances.
3. Rehabilitation or restoration of the site, upon termination of disposal, under the plan submitted pursuant to paragraph B of this section.

4. The entry upon the subject premises by person(s) designated by the Council to properly establish, maintain, operate, rehabilitate or restore the site where the landowner or Franchisee do not comply with their agreement executed pursuant to this section, after written notice and a reasonable opportunity to comply.

**D.** The Council may order the recording in Columbia County of the agreements executed and notarized pursuant to this section as a recorded encumbrance on the real property to assure compliance with the conditions and agreements.

### **Section 23. Specific Transfer Station Franchise Requirements.**

**A.** Applicants for a transfer station franchise shall provide sufficient information to determine compliance with the requirements of this Ordinance, the regulations promulgated thereunder and rules of federal, state or local agencies having jurisdiction.

**B.** Applicant shall specify the type of transfer station site and the method to be employed for receiving, storing and transporting the waste and solid waste and the types of waste that will be accepted or rejected at the transfer station.

**C.** Each applicant shall supply a plan for rehabilitation and use of the site after the transfer station has been terminated and such use shall be a use permitted within the zone in which such land is located. Such plan shall be prepared in accordance with the requirements of Scappoose Municipal Code Chapter 17.120, Site Development Review.

**D.** The applicant must show to the satisfaction of the Council that:

1. The Franchisee has available land, equipment, facilities, and personnel to meet the standards established by this Ordinance and Chapter 459, Oregon Revised Statutes and the rules and regulations promulgated thereunder.
2. The Franchisee has in force public liability insurance in the amount of not less than \$100,000 per person and \$500,000 per accident for bodily injury or death and not less than \$100,000 for property damage which shall be evidenced by a certificate of insurance.

### **Section 24. Review Of Applications For Franchises.**

**A.** Applications shall be reviewed by the City Manager, who shall make such investigation as he deems appropriate and who may request assistance of other persons as necessary.

**B.** The City Manager shall notify the holder of, or an applicant for, another franchise for any part of the service area under consideration or whose existing or proposed disposal site would reasonably be affected by the disposal site under consideration.

**C.** Unless the time is extended by the Council for good cause, the City Manager shall make his recommendation to the Solid Waste Advisory Committee within thirty (30) days after the application and any required supplemental information has been filed.

**D.** The Committee shall consider the application and the recommendation of the City Manager at the next regular meeting of the Committee and may require additional investigation to be made or information to be filed either before or after the meeting. Based on the application, any evidence received and the City Manager's recommendation, the Committee shall make findings of fact on whether (1) additional area should be included; (2) additional services should be provided; (3) additional equipment, facilities, land or personnel should be provided; (4) conditions should be imposed on disposal; and, with respect to a disposal site, (5) the site may be integrated with existing private or public sites and, (6) the site is economically feasible. The Committee shall recommend to the Council to grant, deny, modify or attach appropriate conditions to the application and shall transmit such recommendations within sixty (60) days from the date of the meeting.

## **Section 25. Council Action On Applications For Franchise.**

**A.** The Council:

1. May require additional investigation by the City Manager or the Committee if it finds that there is insufficient information on which to base its action.
2. Shall, upon the basis of the application, the City Manager's recommendation, the Committee's findings of fact and such other information as is permitted by this Ordinance and as is before the Council, affirm, deny, or modify the findings of the Committee and make an order granting, denying or modifying the application or attaching conditions thereto. Where the provisions of Scappoose Municipal Code Chapter 17 apply, all Planning Commission approvals shall be completed prior to Council action on the franchise application.
3. The Council order on the franchise application shall be effective thirty (30) days after the date of such order and the applicant and current franchise holder shall be notified in writing of the order. The Council may suspend requirements of this subsection and enter an emergency order if it finds that there is an immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay.
4. Upon receipt of the Committee's findings of fact, the City Manager's recommendation and any applicable Planning Commission approvals, the Council shall publish notice of its intent to review the findings of fact and recommendation in an open meeting at least seven (7) days prior to the meeting. Written and/or oral testimony may be presented at said open meeting.

## **Section 26. Exclusive Or Joint Service Under A Franchise.**

**A.** If, with or without the recommendation of the Committee, the Council finds it to be in the public interest, the Council may issue a franchise for joint service with another person to provide service to a single customer, a group or type of customers, or for a particular type or quantity of solid waste. Where the Council finds that the applicant is able to provide service in the best interest of the public for all types within the defined service area, it shall issue an exclusive franchise for that area to the applicant.

**B.** If a Franchisee is unable to provide service for particular types or unusually large quantities of solid waste:

1. The City Manager may permit the Franchisee to subcontract such service to another person if he finds that the quality and extent of the service would not be jeopardized. The City Manager may require the filing of such information as he deems is necessary. The City Manager may request the recommendation of the Committee on the subcontract.
2. The Council may issue a temporary or permanent franchise to another person for the limited purpose of providing service to the customers having such solid wastes.

## **Section 27. Responsibilities Of Franchisees.**

**A.** Except as provided in subsection C of this section, no Franchisee shall voluntarily discontinue service to all or a substantial portion of his service area or at his disposal site or transfer station until he has:

1. Given ninety (90) days notice to affected customers in the service area;
2. Posted ninety (90) days notice at the applicable disposal site;
3. Given ninety (90) days written notice to the City Manager; and
4. Obtained written approval of the Council.

**B.** Subsection A of this section shall not apply to:

1. Change, restriction or termination of service when required by any public agency, public body or court having jurisdiction.
2. Refusal to provide service to customers refusing to pay for service in accordance with rates established pursuant to this chapter. Holders of collection franchises shall not discontinue service under this paragraph without seven (7) days prior written notice to the customer. Where service has been refused to a customer for refusal to pay for service, the Franchisee may require a reasonable deposit to guarantee payment for future services before reinstating such service.
3. Transfer of franchises pursuant to Section 31 of this Ordinance.
4. Subcontracts under collection franchises or to a subcontract to operate a disposal site where the City Manager has approved the subcontract after finding that the quality or extent of service would not be jeopardized. In making his determination, the City Manager may request information he deems necessary to insure compliance and written approval of the owner of the land on which the site is located.



**C.** The holder of a transfer station franchise:

1. Shall not voluntarily discontinue service without giving at least ninety (90) days written notice of the proposed discontinuance of service to the Council and to any Franchisee using his transfer station, posting the notice of discontinuance at the site at least ninety (90) days, and further receiving the approval of the Council prior to discontinuing said service. This paragraph shall not apply to any other foreclosure or restriction of use by any public agency, public body or Court having jurisdiction.
2. Shall not contract with another person to operate the transfer station without giving written notice to and obtaining approval from the Council.
3. May refuse service to any customer if the customer refuses to pay for this service in accordance with the rates established pursuant to this Ordinance. A franchise holder who has discontinued service for refusal of a customer to pay for such service may demand that the customer provide a reasonable deposit in advance to guarantee payment for future service prior to reinstating that service.

**Section 28. Enforcement Of Franchise Provisions.** In addition to the remedy provided in Section 36 and penalties provided elsewhere in this Ordinance:

**A.** The City Manager shall, upon reasonable cause, make an investigation to determine if there is sufficient reason and cause to suspend, modify, revoke or refuse to renew a franchise as provided in this subsection.

**B.** If in the judgment of the City Manager, there is sufficient evidence to constitute a violation of this Ordinance, Chapter 459 of the Oregon Revised Statutes, or the rules or regulations promulgated thereunder, the City Manager shall notify the Franchisee in writing, by mail, return receipt requested, of the violation and what steps the Franchisee must take to cure the violation. The City Manager shall send a copy of the notice to the Council.

**C.** If the violation remains after ten (10) days of notice, the City Manager shall publish notice of a public hearing for the Council to consider written and/or oral testimony and revoke, modify or suspend the violator's franchise. Notice of public hearing shall be published at least seven (7) days prior to said hearing.

**D.** Should the Franchisee fail to comply with the Council's decision pursuant to this section, the Council may take any steps authorized by law to enforce its decision. All expenses incurred in enforcement of the Council's order, including reasonable attorney fees, may be recovered from the non-complying Franchisee.

**Section 29. Preventing Interruption Of Service.** Whenever the Council finds that the failure of service or threatened failure of service would result in creation of a health hazard or public or private nuisances, the Council shall, after reasonable notice but not less than twenty-four (24) hours notice to the Franchisee, hold a public hearing if the Franchisee requests such hearing and have the right to authorize another Franchisee, or other person to provide service, or to use and

operate the land, facilities, or equipment of the franchise holder through leasing to provide emergency service in the event of a serious interruption of service to all customers so long as such interruption continues.

**Section 30. Franchise Term And Renewals.** A Franchise agreement shall be for the length or time stated in the franchise agreement, but not to exceed ten (10) years. The term for disposal franchises shall be determined by the Council upon the basis of a recommendation by the Committee based upon site longevity, population to be served and probable use.

**Section 31. Transfer Of Franchises.** No franchise for the collection and disposal of solid waste or recyclable materials, or any interest therein, granted by the Council pursuant to the provisions of this chapter, may be sold, assigned, mortgaged or otherwise transferred without prior consent of the Council. The Council may grant or deny consent, or may impose such conditions with respect to transfer of the franchise contract or any interest therein as are in the interest of the public health and general welfare.

**Section 32. Franchise Fees.**

A. Franchise fees shall be in such amounts as are set by the Council by resolution.

B. The annual franchise fee shall be computed and paid to the City of Scappoose, four (4) times per year. Payments shall be made for three-month periods ending March 31, June 30, September 30, and December 31 of each calendar year. The payment for a quarter shall be due by the last day of the month following the quarter. The payments required for each quarter shall be based upon the gross receipts collected by the franchise holder during the quarter.

C. An annual financial report and any proposed fee adjustment the next calendar year shall be submitted to the City Manager no later than April 15 of each year.

D. Every franchise holder shall maintain books and records disclosing the number and types of customers served and the gross receipts collected in the franchise area. These books and records shall be open at reasonable times and places for audit by authorized personnel of the City of Scappoose.

**Section 33. Use Of Franchise Fees.** Franchise fees collected pursuant to Section 32 of this Ordinance shall be paid into the General Fund and shall be used in the manner and for the purposes determined by the Council. The Solid Waste Advisory Committee may request the Council approve funds to carry out the provisions of Section 2 of this Ordinance.

**Section 34.** Scappoose Municipal Code Section 8.20.020 is amended by the addition of subsection M as follows:

“M. Except as provided in Section 5 of the Solid Waste Management Ordinance, no person shall store, collect, maintain, or display on private property, waste or solid waste that is offensive or hazardous to the health and safety of the public or which creates offensive odors or a condition of unsightliness. Storage, collection,

maintenance, or display of wastes or solid waste in violation of Scappoose Municipal Code Chapter 8.16 shall be considered to be a public nuisance which may be abated as provided in Scappoose Municipal Code Chapter 8.20.”

**Section 35.** Scappoose Municipal Code Section 8.20.130 is amended to read as follows:

**A.** The City Manager may, and upon the written complaint of any person shall, make an investigation to determine whether or not a nuisance exists.

**B.** If, after investigation, the City Manager finds that a nuisance does exist, he shall cause a notice to be mailed to the property owner by certified mail, giving the property owner fourteen (14) days to abate the nuisance. The notice to abate shall contain:

1. A description of the real property by address and Columbia County property tax account number;
2. The length of time in days that the property owner has to abate the nuisance from the receipt of the notice to abate;
3. A description of the nuisance to be abated;
4. A statement that unless the nuisance is abated by the property owner within the given length of time, the City will cause the nuisance to be abated; and that the costs of the nuisance abatement shall be collected from the owner of the property and may be made a lien against the property.
5. A statement of right to appeal.

**C.** If the owner of the property does not abate the nuisance within fourteen (14) days, the City Manager shall forward written notice to the Council consisting of a copy of the abatement notice, a photograph of the nuisance and the statement of the City Manager that the nuisance continues to exist. The Council may direct the City Manager to send notice by certified letter to the owner of the property where the nuisance is alleged to be maintained, requiring the owner to appear before the Council at the next regular City Council meeting to show cause why a nuisance should not be declared to exist. At the time and place fixed in the notice, the Council shall hold a hearing on the question of the existence of the nuisance. If, after the hearing, the Council finds that a nuisance exists, it shall declare the existence of a nuisance and send a certified letter to the property owner ordering the nuisance abated within fourteen (14) days.

**D.** If the owner or occupant of the property fails to abate the nuisance within fourteen (14) days after the order of the Council, the Council may refer the matter to the City Attorney to institute suit in the name of the City of Scappoose for the abatement of the nuisance or the Council may direct the City Manager or his representative to cause the nuisance to be abated by removing from the subject property the cause of such nuisance.

**E.** Where the Council has determined that the removal of the cause of the nuisance from the subject property shall be done by the City, the City Manager shall cause the abatement

to occur and shall keep an accurate record of expenses incurred by the City in abating the nuisance. Upon completion, the City Manager shall forward to the property owner, by registered or certified mail, a notice stating:

1. The total cost of the nuisance abatement;
2. That the cost as indicated will be assessed to, and become a lien against, the property unless paid within thirty (30) days from the date of the notice; and
3. That if the owner of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the Council not more than fourteen (14) days from the date of the notice.

**F.** If within fourteen (14) days the written statement of objection is filed, the Council shall at the next regular meeting hear the objections to the cost to be assessed. Following this meeting, the Council may reduce, modify or approve the assessment made and shall adopt a Resolution assessing the costs.

**G.** If the assessment is not paid within thirty (30) days from the date of notice or from the date of the determination by the Council of the cost to be assessed pursuant to a written statement of objection, a lien shall be filed in the City lien docket and the deed records of Columbia County and shall constitute a first lien upon such lands or premises, except as to taxes. In the case of nuisances abated at City expense, when the charges and expenses are not paid and the lien discharged by the owner or occupant of such lands within ninety (90) days from the date the lien is docketed, the City Recorder shall certify the same to the Tax Collector of the City, who shall extend the amount thereof upon the current tax rolls. When so extended, the assessment shall be collected by the Tax Collector in the same manner as taxes are collected. All liens so certified by the City Recorder to the Tax Collector after September 1<sup>st</sup> of each year shall be extended on the next roll delivered to the Tax Collector under ORS 311.115.

**H.** Where the nuisance is abated by the City, the City and its officers and employees shall not be liable for any trespass or conversion as to any real or personal property.

**I.** The provisions of this section are in addition to, and not in lieu of, any other penalty, remedy or enforcement procedure described in this Ordinance or elsewhere in the Scappoose Municipal Code.

**Section 36.** Scappoose Municipal Code Section 8.20.200, Violations and Penalties, is amended to read:

**A.** Violation of Scappoose Municipal Code Chapter 8.20 constitutes a Civil Infraction and may be processed in accordance with the procedures set forth in this Code for infractions. Each day a violation of Chapter 8.20 continues shall be a separate violation. The penalty for violation of Code Chapter 8.20 shall be a fine in the amount of \$100.00 for the first offense, \$250.00 for the second offense, and \$500.00 for each subsequent offense involving the same nuisance, not to exceed \$5,000.00 for the same nuisance.

**B.** In addition to the above penalties, any condition caused or permitted to exist in violation of Code Chapter 8.20 shall be deemed a public nuisance and the City Attorney may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such violation.

**C.** Penalties and remedies provided in this section are not exclusive and are in addition to any other penalties and remedies available to the City under any other provisions of this code, City ordinance or law.

**Section 37. Repealer.** Scappoose Municipal Code Sections 8.16.010 through 8.16.080 are repealed. Resolutions 661 and 687 are rescinded.

**Section 38. Severability.** Any finding by any court of competent jurisdiction that any portion of this Ordinance is unconstitutional or invalid shall not invalidate any other portion of this Ordinance.

**PASSED AND ADOPTED** by the Scappoose City Council and signed by me, and the City Recorder, in authentication of its passage on this 18th day of January, 2000.

**CITY OF SCAPPOOSE**

  
Glenn E. Dorschler, Mayor

First Reading: December 6, 1999

Second Reading: January 18, 2000

Attest:   
Debi G. Schmit, City Recorder