

TITLE 5

PUBLIC PEACE, HEALTH, SAFETY, AND WELFARE

CHAPTER 530

SOLID WASTE AND DISPOSAL CODE

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I. GENERAL PROVISIONS

530.001 Short Title

This Chapter shall be known as the "Solid Waste Collection and Disposal Code" and may be so cited and pleaded and shall be cited herein as "this Chapter."

[Adopted 71-042 §1.01 eff 3/31/71]

530.005 Purpose and policy

To protect the health, safety and welfare of the people of Linn County and to provide a coordinated solid waste management program, it is declared to be the public policy of Linn County, Oregon, to regulate solid waste management to:

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

(B) To prohibit accumulation of waste or solid wastes on private property in such manner as to create a public nuisance, a hazard to health, a condition of unsightliness through creation of an unauthorized disposal site.

(C) Develop a regional long-range plan to provide adequate disposal sites and disposal facilities to meet future demands.

(D) Provide for a coordinated County-wide 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.

(E) Provide for and encourage research, studies, surveys and demonstration projects on developing more sanitary, efficient and economical solid waste management systems.

(F) Encourage and promote waste reduction through technologically and economically feasible resource recovery including, without limitation, recycling and reuse, by and through the franchisees and other persons.

(G) Provide for a coordinated solid waste management plan with cities within Linn County and with other counties or cities should regional plans be developed.

(H) Provide for cooperation and agreements between Linn County and other counties involving joint or regional franchising of solid waste collection or disposal.

(I) Provide minimum standards for location and operation of disposal sites to protect adjacent or nearby residents.

(J) Encourage utilization of the capabilities and expertise of private industry in accomplishing the purposes of this Chapter.

[Adopted 71-042 §1.03 eff 3/31/71; amd 83-170 §1 eff 9/6/83]

530.010 Definitions

For the purpose of this Chapter, 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 Chapter” shall be deemed to include all amendments hereafter made to this Chapter.

“**Administrator**” means the Linn County Environmental Health Program Manager and the Program Manager’s duly authorized deputy or assistant.

“**Board**” means the County Commissioners of Linn County, Oregon.

“**Collection franchise**” means a franchise to store, collect or transport solid waste.

“**Collection vehicle**” means any vehicle used to collect or transport solid waste.

“**Committee**” means the Solid Waste Advisory Committee created pursuant to this Chapter.

“**Compensation**” includes any type of consideration paid for service, including but not limited to, direct or indirect compensation by tenants, licenses or similar persons.

“**Dispose or disposal**” includes accumulation, storage, collection, transportation and disposal of solid wastes.

“**Disposal franchise**” means a franchise to create or maintain a disposal site.

“**Disposal site**” means any land used for the disposal of solid wastes, including, but not limited to, dumps, landfills, sanitary landfills and composting plants, but does not include a landfill site which is not used by the public either directly or through a service and which is used by the owner or tenant thereof to dispose of sawdust, bark, soil, rock, building demolition material or nonputrescible industrial waste products resulting from the process of manufacturing.

“**Franchise**” means a franchise to provide service issued by the Board pursuant to this Chapter.

“**Hazardous solid waste**” means 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.

“**Incinerator**” means a combustion device specifically designed for the reduction, by burning of solid, semi-solid or liquid combustible wastes.

“**Landfill**” means a disposal site operated by means of compacting and covering solid waste at specific designated intervals, but not each operating day.

“**Person**” means and includes individuals, corporations, associations, firms, partnerships and joint stock companies.

“**Putrescible material**” means organic materials that can decompose and may give rise to foul smelling, offensive products.

“**Regulations**” means regulations promulgated by the Board pursuant to this Chapter.

“**Rules**” means rules promulgated by state agencies pursuant to ORS Chapter 459.

“**Sanitary landfill**” means a disposal site operated by means of compacting and covering solid waste at least once each operating day.

“**Service**” means disposal by private persons for compensation.

“**Service area**” means the geographical area in which service, other than operation of a disposal site, is provided by any person.

“**Solid waste**” means all putrescible and non-putrescible wastes, whether in solid or liquid form, except liquid-carried industrial wastes or sewage or sewage hauled as an incidental part of a septic tank or cesspool cleaning service, but including garbage, rubbish, ashes, paper, cardboard, sewage sludge, street refuse, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, dead animals and other discarded solid materials.

“**Transfer station**” means a transfer station is a disposal site where solid waste is received, temporarily stored, and then transported elsewhere for final disposition.

“**Solid waste management**” includes storage, collection, transportation, treatment, utilization, processing and final disposal or salvage, recycling or reuse of solid waste and necessary facilities therefor.

“**Waste**” means useless, unwanted or discarded materials.

[Adopted 71-042 §1.04 to 1.27 eff 3/31/71; amd 82-038 §1 eff 3/3/82; amd 83-460 §§ 1 and 2 eff 1/1/84; amd 03-335 §1 eff 9/10/03]

530.200 Administration

The Administrator, under the supervision of the Board and with the assistance of the Committee, shall be responsible for the enforcement of this Chapter. In order to carry out the duties imposed by this Chapter, the Administrator shall enter or authorize personnel to enter on the premises of any person regulated by this Chapter at reasonable times to determine compliance with

this Chapter and regulations promulgated pursuant thereto.

[Adopted 71-042 §1.28 eff 3/31/71]

530.210 Persons and agencies exempted

In addition to other provisions of this Chapter applying specifically to abatement, this Chapter shall not apply to:

(A) Areas lying within the limits of any incorporated City, except that with the consent of the governing body of an incorporated City, the County may operate or franchise the operation of a Disposal Site within the limits of the City.

(B) Federal or State agencies that collect, store, transport or dispose of wastes or solid wastes or those persons who contract with such agencies to perform service, but only as to terms for the collection or disposal service or as to rates to be charged for such service under the contract. This exemption shall not apply to disposal on a disposal site operated by a franchise under this Chapter.

[Adopted 71-042 §1.29 eff 3/31/71; amd 82-038 §2 eff 3/3/82]

II. SOLID WASTE ADVISORY COMMITTEE

530.300 Solid Waste Advisory Committee

There is hereby created a Solid Waste Advisory Committee consisting of:

(A) Members:

(1) The Mayor of the City of Albany or the Mayor's designated representative.

(2) The Mayor of the City of Lebanon or the Mayor's designated representative.

(3) The Mayor of the City of Sweet Home or the Mayor's designated representative.

(4) The Mayor of another City in Linn County, to be appointed by the Board, or that Mayor's designated representative.

(5) Three members from the general public, to be appointed by the Board.

(B) The Administrator who shall serve as chairman but who shall not vote.

(C) Advisors to the Committee, who shall not vote:

(1) District Attorney or a delegated representative.

(2) Director of Department of Environmental Quality or a delegated representative.

(3) Oregon Refuse and Recycling Association.

(4) Linn County franchisees.

(5) Linn County Planning and Building Director or a delegated representative.

(6) Linn County Engineer or a delegated representative.

[Adopted 71-042 §2.01 eff 3/31/71; amd 82-038 §3 eff 3/3/82; amd 03-335 §1 eff 9/10/03]

530.310 Appointment of Solid Waste Advisory Committee

(A) General Public Members shall be appointed by the Board for three (3) year terms, with initial terms being for 1, 2, and 3 years. The Board may appoint or approve designation of alternates to serve in the absence of persons appointed to the Committee.

(B) Mayors of Albany, Lebanon and Sweet Home, or their designates, shall serve for the term of their office. The term of the Mayor of a Fourth City, or that Mayor's designate, shall be for two years. Members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the Board for the balance of the unexpired term.

(C) The Chairman may appoint one member as Vice-Chairman. Four members of the Committee shall constitute a quorum for the transaction of business. The Committee shall meet at such times as deemed necessary or as called by the Board. The Chairman or any three members of the Committee may call a special meeting with ten days' notice to other members of the Committee; provided, however, that members may waive such notice.

[Adopted 71-042 §2.02 eff 3/31/71; amd 82-038 §4 eff 3/3/82]

530.320 Duties of the Solid Waste Advisory Committee

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

(A) Make an annual report to the Board containing recommendations on development and implementation of a solid waste management plan and any necessary regulations or amendments to this Chapter.

(B) In consultation with responsible public officials and with persons providing service:

(1) Develop and periodically review a solid waste management plan including regional disposal sites and necessary disposal systems for review, adoption or modification by the Board.

(2) Develop and recommend to the appropriate agency or the Board minimum standards for location and operation of disposal sites including but not limited to, protection of adjacent or nearby residents.

(C) Perform such other duties as directed by the Board or as the Committee may find necessary to effectively carry out the purposes of this Chapter.

[Adopted 71-042 §2.03 eff 3/31/71]

III. SOLID WASTE REGULATION

530.340 Regional Solid Waste Committee

The Board may appoint one or more members of the Committee to serve on any regional solid waste committee to advise the Board.

[Adopted 71-042 §2.04 eff 3/31/71]

530.400 Regulation of solid waste management

Upon its own motion or upon recommendation of the Committee, the Board may adopt reasonable and necessary regulations governing disposal sites or implementing this Chapter. Such regulations shall conform to ORS Chapter 459 and rules promulgated pursuant thereto.

[Adopted 71-042 §3.01 eff 3/31/71]

530.500 Persons, activities and practices regulated

Except as provided in LCC 530.520, no private persons shall provide service for compensation except as authorized by a collection or

disposal franchise issued pursuant to LCC 530.500 to 530.999.

[Adopted 71-042 §4.01 eff 3/31/71]

IV. FRANCHISES

530.510 Applications for franchises

(A) Application for a franchise shall be made on forms provided by the Administrator. The Administrator may require filing of additional information necessary to determine compliance with this Chapter, ORS Chapter 459, Chapter 459A and regulations and rules promulgated thereunder together with any other applicable laws or County Code.

(B) The applicant shall prove to the Board that:

(1) Applicant has sufficient collection vehicles, equipment, land, facilities or personnel to meet the standards established by this Chapter and ORS Chapter 459 and regulations or rules promulgated thereunder.

(2) Applicant is current and agrees to remain current on all taxes owed to federal, state and local taxing agencies, including but not limited to, ad valorem taxes owed on all real and personal property owned or leased by the applicant.

(3) Applicant has in force and will continue to hold general liability insurance in the amount of not less than \$1,000,000 per occurrence, which shall be evidenced by a certificate of insurance..

(4) Applicant has good moral character, or if the applicant is a business entity, the principal partners or officers are of good moral character.

(5) Applicant has sufficient experience in properly providing service of a comparable quality and quantity to insure compliance with this Chapter, any regulations promulgated thereunder and any franchise issued to him. If the applicant does not prove to the satisfaction of the Board that the applicant has sufficient and successful experience, the Board may require the applicant to

submit a corporate surety bond in the amount of \$5,000 or 1/2 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 Chapter. If the applicant is applying for both a disposal franchise and a collection franchise or collection franchises, the Board may permit the applicant to provide a single bond covering all such liabilities.

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

[Adopted 71-042 §4.02 eff 3/31/71; amd 84-128 §1 eff 3/28/84; amd 03-335 §1 eff 9/10/03]

530.520 Existing disposal and collection operators

Persons providing collection or disposal service on the effective date of this Chapter shall file an application for a franchise together with any required information within thirty (30) days thereafter. Upon filing the application, such person may continue providing service until a final determination on the application is made by the Board or a Court upon appeal. Persons who meet the applicable qualifications of this article and who were providing service on the effective date of this Chapter and on January 1, 1971, shall be awarded a collection franchise for the area they were serving on the effective date of this Chapter.

[Adopted 71-042 §4.03 eff 3/31/71; amd 03-335 §1 eff 9/10/03]

530.530 Specific collection franchise requirements

An applicant for a collection franchise shall prove to the satisfaction of the Board that:

(A) Applicant will use disposal sites authorized by the Board.

(B) Applicant is either:

(1) Providing service in the service area for which the applicant applies on the effective date of this Chapter and had a majority of service accounts in such service area, which shall be

evidenced by a list of customers served and a map of the service area; or

(2) Applying for a service area that has not been franchised to another person, is not being served by the franchisee after notice and a reasonable opportunity to do so or is not being adequately served by a franchisee and that there is a substantial demand from customers for a change in service.

(C) Applicant will, if applying for all or a part of a service area franchised to another person pursuant to LCC 530.530 (B) (2), have available on the first day of such proposed service, collection vehicles, containers or other equipment equal to that presently used in providing such service and that service would be equal to existing service.

[Adopted 71-042 §4.04 eff 3/31/71; amd 03-335 §1 eff 9/10/03]

530.540 Specific disposal franchise requirements

(A) An applicant for a disposal franchise shall submit a duplicate of the information submitted to the Department of Environmental Quality on such site under ORS Chapter 459 and rules promulgated thereunder.

(B) Each applicant may be required to 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 at a scale of not less than one inch equals 400 feet with topographical contours, an interval of which shall be not less than 25 feet. In the discretion of the Administrator, Committee or Board, the applicant may be required to furnish a map showing greater detail to determine compliance with this Chapter and standards established by the Board. Amended plans may be submitted for approval in the same manner as initial plans.

(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 Administrator, 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 Chapter to determine compliance with this Chapter 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 Chapter and applicable provisions of ORS Chapter 459, rules promulgated thereunder and other laws or County Code.

(3) Rehabilitation or restoration of the site upon termination of disposal under the land use plan submitted pursuant to LCC 530.540 (B) or any amendment thereto.

(4) The entry upon the subject premises by persons designated by the Board 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 subsection after written notice and a reasonable opportunity to comply as provided in LCC 530.600 (B).

(D) The Board may order the filing in the County deed records of the agreements executed pursuant to LCC 530.540 as a recorded encumbrance on the real property to assure compliance with the conditions and agreements.

[Adopted 71-042 §4.05 eff 3/31/71; amd 84-128 §2 eff 3/28/84]

530.550 Review of applications for franchises

(A) Applications shall be reviewed by the Administrator who shall make such investigation as the Administrator deems appropriate and who may request assistance of other persons as necessary.

(B) The Administrator 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 Board for good cause, the Administrator shall make a recommendation to the Committee within 30 days after the application and any required supplemental information has been filed.

(D) The Committee:

(1) Shall consider the application and the recommendation of the Administrator at the next regular meeting of the Committee or at a special meeting called for the purpose.

(2) May require additional investigation to be made or information to be filed.

(3) May, after written notice to interested persons, call an informational hearing to permit interested persons to testify orally or in writing.

(4) Shall upon the basis of the application, any evidence or testimony submitted and the Administrator's recommendation, make a finding on whether additional area should be included; additional services be provided; additional equipment, facilities, land or personnel be provided; whether conditions should be imposed on disposal; and, with respect to disposal sites, whether or not the site may be integrated with existing private or public sites and whether or not the site is economically feasible.

(5) Shall upon the basis of its findings, transmit its recommendations to the Board to grant, deny or modify or attach appropriate conditions and shall transmit such recommendations within sixty (60) days from the date of the first meeting on the application, unless longer time is required, not to exceed 120 days total.

[Adopted 71-042 §4.06 eff 3/31/71; amd 03-335 §1 eff 9/10/03]

530.560 Board action on applications for franchises

The Board:

(A) May require additional investigation by the Administrator or the Committee if it finds that there is insufficient information on which to base its action.

(B) Shall upon the basis of the application, the Administrator's recommendation, the Committee's recommendation and such other information as is before the Board, affirm, deny or modify the findings of the Committee and make an order granting, denying, or modifying the application of attaching conditions thereto.

(C) Shall not make an order adverse to the applicant or to the holder or applicant for another franchise with an effective date less than thirty (30) days after the date of such order, and shall notify such persons in writing of the order. The Board may suspend the thirty (30) day period upon a finding of immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay.

[Adopted 71-042 §4.07 eff 3/31/71; amd 83-460 §3 1/1/84]

530.570 Exclusive or joint service under a franchise

(A) If the Board finds that an applicant for a collection franchise cannot provide service to a particular customer, a group or type of customers or for a particular type or unusually large quantity of solid waste, it may issue a franchise for joint service with another person who can provide the service needed within the defined service area.

(B) If the Board finds that an applicant for a collection franchise can provide adequate service of all types within the defined service area, and that applicable laws controlling exclusive franchising will be complied with it shall issue an exclusive franchise for that area to the applicant.

(C) If a franchisee is unable to provide service for particular types or unusually large quantities of solid wastes:

(1) The Administrator may permit the franchisee to subcontract such service to another person if the Administrator finds that the quality and extent of service would not be jeopardized. The Administrator may require the filing of such information as the Administrator deems necessary. The Administrator may request the recommendation of the Committee on the subcontract.

(2) The Board may issue a temporary or permanent franchise to another person for the limited purpose of providing service to the customer or customers having such solid wastes.

(D) Upon recommendation of the Administrator and a finding by the Board that the need for service justifies action before a complete investigation and final determination can be made, the Board may order the administrator to issue a

temporary certificate valid for a stated period not to exceed six (6) months, entitling a person to serve a defined service area or customers.

[Adopted 71-042 §4.08 eff 3/31/71; amd 83-460 §4 eff 1/1/84; amd 03-335 §1 eff 9/10/03]

530.580 Appeal from determination of Board on franchise

(A) An applicant for a franchise or other affected franchise holders or franchise applicants, may appeal an adverse order by filing written notice of appeal with the Board within thirty (30) days of the date of the order.

(B) Unless an emergency order has been entered, the filing of notice of appeal shall suspend operation of the order until a final determination by the Board on the appeal.

(C) The appellant may request a public hearing as part of the notice of appeal. The Board may, upon its own motion or upon request, set a public hearing not more than thirty (30) days from the date of notice of appeal.

(D) The Board shall provide an adequate opportunity for the appellant and other interested persons together with affected public agencies or governmental jurisdictions to submit written statements or evidence or, if a public hearing is held, to submit oral or written testimony at a public hearing.

(E) Upon the basis of submissions or testimony entered pursuant to this Section, the Board may affirm, modify or rescind its prior order. Subject to court appeal as provided in this Chapter, the determination of the Board on the appeal shall be final.

(F) If the Board makes a final order rejecting all or part of the application for franchise, the applicant may not submit another application containing all or a portion of the same service area or same disposal site for a period of six (6) months unless public interest requires reconsideration within a shorter period of time.

[Adopted 71-042 §4.09 eff 3/31/71; amd 03-335 §1 eff 9/10/03]

530.590 Responsibilities of franchisees

(A) Except as provided in LCC 530.590 (C), no franchisee shall voluntarily discontinue service

to all or any portion of the franchisee's service area or disposal site until the franchisee has:

(1) Given 90 days written notice to affected customers in the franchisee's service area, and

(2) Posted 90 days' notice at the franchisee's disposal site, and

(3) Given 90 days' notice in writing to the Administrator, and

(4) Obtained approval of the Board.

(B) When a franchisee is not serving a service area or portion thereof at the time of granting the franchise, the Board may order that service be provided at such time as it finds the service to be necessary and reasonable.

(C) LCC 530.590 (A) 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 and to the Administrator. 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 LCC 530.660.

(4) Refusal of service to a customer upon reasonable grounds and with the approval of the Administrator upon a finding that service at the particular location would jeopardize the safety of the driver of a collection vehicle or the motoring public, that the customer has not provided reasonable access to the pickup point for the containers storing solid wastes without hazard or risk to the person providing service or that weather conditions prevent service to the particular customer.

(5) Subcontracts under collection franchises pursuant to LCC 530.570 or to a subcontract to operate a disposal site where the Adminis-

trator has approved the subcontract after finding that the quality or extent of service would not be jeopardized. In making a determination, the Administrator may request a recommendation from the Committee, information the Administrator deems necessary to insure compliance and written approval of the owner of the land on which the site is located.

[Adopted 71-042 §4.10 eff 3/31/71; amd 03-335 §1 eff 9/10/03]

V. ENFORCEMENT PROVISIONS

530.600 Enforcement of franchise provisions

In addition to the remedy provided in LCC 530.620 and penalties provided elsewhere in this Chapter:

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

If, in the judgment of the Administrator, there is sufficient evidence to constitute a violation of this Chapter, ORS Chapter 459 or the rules or regulations promulgated thereunder, the Administrator shall notify the franchisee in writing of the alleged violation and what steps the franchisee must take to cure the violation and follow the requirements set forth in the notice. The Administrator shall send a copy of the notice to the Committee and may forward a copy to the Board. Upon a finding that a violation exists and that the franchisee is unable to or refuses to cure the violation, the Committee shall make its recommendation to the Board that the franchise be suspended, modified, or revoked or that it not be renewed together with any conditions the Committee deems appropriate.

(B) In the event that the landowner or franchisee under a disposal franchise does not comply with agreements executed pursuant to LCC 530.540 within a reasonable time after written notice to comply, the Board may institute proceedings under LCC 530.600 (C) to enforce compliance. "Reasonable time" within this subsection

shall be determined by the Board upon the basis of health, safety and welfare of the people of Linn County and of the area. In determining what is a "reasonable time" the Board shall give due consideration to, but shall not be limited to, the following:

- (1) The nature of the deficiency.
- (2) Conditions created by the deficiency.
- (3) Hazards to health or safety.
- (4) Creation of a condition of unsightliness.
- (5) Creation of a public or private nuisance.
- (6) Whether there is a satisfactory alternative practice, procedure or operation.

(C) Upon failure of the landowner or franchisee to comply with the Board's order within the time specified therein, the Board shall give thirty (30) days written notice to the landowner or franchisee or both at their last known addresses. The Board may shorten this notice to a period of not less than 24 hours' notice made to the landowner or franchisee if the Board finds that there is an immediate and serious danger to the public through creation of a health hazard or a public or private nuisance. After required notice, the Board shall hold a public hearing at which all interested persons shall have the right to be heard. After the public hearing and on the basis thereof, the Board shall have the power to order appropriate County agencies to correct the deficiencies in the establishment, maintenance or operation of the site, or to make required rehabilitation or restoration.

(D) The cost incurred by the County in carrying out LCC 530.600 (C) shall be paid by the landowner or franchisee or both. If not paid, the Board may order appropriate action to be taken to impose a lien upon the subject premises.

[Adopted 71-042 §4.11 eff 3/31/71; amd 03-335 §1 eff 9/10/03]

530.610 Suspension, modification, revocation or refusal to renew a franchise

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

(1) Willfully violated this Chapter or ORS Chapter 459 or rules or regulations promulgated thereunder;

(2) Materially misrepresented facts or information given in the application for the franchise;

(3) Willfully refused to provide adequate service in a defined service area or at the franchised disposal site after written notification and a reasonable opportunity to do so; or

(4) Misrepresented the gross receipts from the franchised service area or disposal site if such reports are required by this Chapter or by order of the Board.

(B) In lieu of immediate suspension, modification, revocation or refusal to renew a franchise, the Board may order compliance and make the suspension, modification, revocation or refusal to renew a franchise contingent upon compliance with the order of the Board within the period of time stated therein.

(C) If the Board suspends, modifies, revokes or refuses to renew the franchise, the action shall not become effective until thirty (30) days after the date of the order unless the Board finds that there is a serious and immediate danger to the public health or that a public nuisance would be created. The holder of a franchise may request a public hearing before the Board on the order by filing a written request for such hearing with the Board within thirty (30) days after the date of the order. Upon filing of request for hearing, the Board shall set a time and a place for a public hearing within 30 days of the request. The franchisee and other interested persons or affected public agencies or public bodies may submit oral or written evidence to the Board relevant to the Board's order. The Board may, following the public hearing, affirm, amend or rescind its prior order and shall do so within thirty (30) days of the public hearing. Subject to court appeal as provided in this Chapter, the determination of the Board shall be final.

[Adopted 71-042 §4.12 eff 3/31/71]

530.620 Preventing interruption of service

Any applicant for a franchise or franchise renewal agrees, and it is a condition of the applicant obtaining and holding the franchise, that whenever the Board finds that the failure of service or threatened failure of service would result in creation of health hazards or public or private nuisances, the Board shall, after reasonable notice but not less than 24 hours notice to the franchisee and a public hearing if the franchisee requests such hearing, 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 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 or to a class or group of customers for so long as such interruption continues.

[Adopted 71-042 §4.13 eff 3/31/71; amd 03-335 §1 eff 9/10/03]

530.630 Franchise term and renewals

(A) Unless the Board finds that a longer or shorter term is required in the public interest, the term for collection franchises shall be ten years.

(B) The term for disposal franchises shall be determined by the Board upon the basis of a recommendation by the Committee based upon site longevity, population to be served and probable use.

(C) Unless grounds exist for refusal to renew a franchise under LCC 530.610 and 530.620, franchises shall be renewable.

Applications for renewal shall be made on forms provided by the Administrator.

[Adopted 71-042 §4.14 eff 3/31/71]

530.640 Franchise fees

The Administrator shall collect, in the manner and at the time provided in this Section, from the holder of:

(A) Any collection franchise. A fee to be set by the Board of not more than six (6) per cent of the gross receipts from providing service to the franchised service area payable to the Administrator each three months payment being due on the

first day following the three month quarterly period, and being delinquent after the fifteenth day following the three (3) month quarterly period. Quarterly payments shall be accompanied by a sworn and verified statement of such gross receipts. Each collection franchise holder shall maintain sufficient books and records to disclose the gross receipts from the service area and shall make such books and records available at reasonable times and places for audit by authorized personnel of Linn County. The Administrator may specify reasonable requirements for keeping such books and records.

(B) Any disposal franchise. Disposal franchise fees shall be on a flat annual fee basis or on a percentage of income basis, at the option of the Board. Fees shall be either;

(1) An annual fee to be established by the Board, in an annual amount not less than \$25 payable to the Administrator on a schedule ordered by the Board, or

(2) A fee to be set by the Board of not more than 12% of the gross receipts for disposal of waste in the disposal site, which fee shall be paid quarterly, to the Administrator, each three months payment being due on the first day following the three month quarterly period, and being delinquent after the fifteenth day following the three (3) month quarterly period.

[Adopted 71-042 §4.15 eff 3/31/71; amd 82-176 §1 eff 8/24/82; amd 83-460 §5 eff 1/1/84]

530.650 Use of franchise fees

Fees collected pursuant to LCC 530.640 shall be paid into a solid waste management fund, and thereafter disbursed as ordered by the Board.

The Committee may make recommendations to the Board on a budget for the use of such funds to carry out the provisions of LCC 530.320.

[Adopted 71-042 §4.16 eff 3/31/71; amd 83-460 §6 1/1/84]

530.660 Transfer of franchises

A franchisee may transfer the franchise, or a portion thereof, to other persons only upon written notice to and approval by the Board.

Upon a recommendation and finding by the Committee, the Board shall approve the transfer if

it finds that the transferee meets all applicable requirements met by the original franchise holder. The Board shall approve or disapprove any application for transfer of a franchise within thirty (30) days of receipt of notice by the Board. The Board may extend this time if it finds that there is a substantial question of public health or safety involved which requires additional time for investigation and decision.

Upon a recommendation of the Committee, the Board may permit a franchise to be pledged as security for purchase of land, equipment or facilities needed to provide service or to finance purchase of a business providing service under this Chapter. The Board may attach whatever conditions it deems appropriate to guarantee maintenance of service.

[Adopted 71-042 §4.17 eff 3/31/71]

530.700 Determination of rates

(A) Upon recommendation by the Committee, the Board may:

(1) Approve and establish rates filed by applicants for franchises if it finds that such rates are not demonstratively unreasonable and are not substantially higher than those charged generally in the County under similar service requirements and for the same or similar quality of service or it may establish a different rate schedule.

(2) Establish uniform rates throughout the County or establish rates that are uniform within zones based upon the length of haul to disposal sites, concentration of customers and other factors which may, in the opinion of the Board, justify establishment of rate differentials.

(3) Establish rates for disposal sites that are uniform throughout the County or different rates for each site or class of sites.

(4) Increase or decrease rates based on the cost of doing business.

(5) Establish an interim rate until the Board makes a final determination on the rate for that type of service.

(B) In determining rates, the Committee and the Board shall make a finding that the rates will be just, fair, reasonable and sufficient to provide

proper service to the public. The Committee and the Board may consider rates charged by other persons performing the same or similar service in the same or other areas. The Committee and the Board shall give due consideration to:

(1) The investment in facilities and equipment.

(2) The services of management.

(3) Local wage scales.

(4) The concentration of customers in the area served.

(5) Methods of storage, collection, transportation and disposal, salvage, recycling or reuse.

(6) A reasonable return to the franchisee.

(7) The length of haul to disposal facilities.

(8) The cost of disposal.

(9) The use of transfer stations or transfer systems and the added costs.

(10) The cost of alternate methods of disposal.

(11) The future service demands of the service area or disposal site which must be anticipated in equipment, facilities, personnel or land.

(12) Extra charges for special pickups or pickups on days where service is not normally provided on a collection route.

(13) Extra charges where the type of character of waste or solid waste, including but not limited to, wastes with peculiarly offensive odors, requires special handling or service.

(14) Extra charges for providing janitorial services on the premises where service is provided.

(15) In addition, with respect to disposal sites, the type of site, whether the site is open to the public and hours, type of waste disposed of and method of disposal.

(16) Cost of compliance with laws, County Code or regulations and rules of public agencies or bodies having jurisdiction.

(17) Other factors which may, in the opinion of the Committee and the Board, necessarily affect the rates to be charged.

(C) The Board may require an investigation by the Committee of any proposed rates. For the purpose of making this investigation, the Administrator shall assist the Committee and the Committee is authorized to hold public hearings and to take and receive testimony. Upon completion of such an investigation, the Committee shall report the results of any public hearing, its findings and its recommendations to the Board.

[Adopted 71-042 §5.01 eff 3/31/71]

530.710 Rate preferences prohibited

(A) No franchises subject to rate regulation by this Chapter shall give any rate preference to any person, locality or type of solid waste stored, collected, transported or disposed.

(B) Nothing in this Section is intended to prevent:

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

(2) Any person from volunteering service at reduced cost for a charitable, community, civic or benevolent purpose.

[Adopted 71-042 §5.02 eff 3/31/71]

530.720 Responsibility for payment for charges for service

Any person who receives service shall be responsible for payment for such service.

[Adopted 71-042 §5.03 eff 3/31/71]

530.800 Agreements for joint franchising or planning

The Board may enter into agreements with any City or County for joint or regional franchising or collection or disposal service or planning for regional solid waste management.

[Adopted 71-042 §6.01 eff 3/31/71]

530.810 Agreements for allocation of franchise fees

The Board may enter into agreements with any City or County providing for the allocation of franchise fees where franchise service areas cross City or County boundaries.

[Adopted 71-042 §6.02 eff 3/31/71]

530.820 Appeals

All decisions of the Board under this Chapter shall be reviewable by the Circuit Court of the State of Oregon for the County of Linn.

[Adopted 71-042 §7.01 eff 3/31/71]

530.830 Appeals from decisions of the administrator

The Board may, upon its own motion or upon the request of an interested person or affected public agency or public body, review the decisions of the Administrator made pursuant to this Chapter and may uphold, modify, rescind or leave standing, the decision of the Administrator. For this purpose, the Board may request the recommendation of the Committee and the Board may uphold a public hearing with notice to interested persons, public agencies and public bodies.

[Adopted 71-042 §7.02 eff 3/31/71]

530.840 Abatement

(A) The accumulation, storage, collection, transportation or disposal of solid wastes by any person in violation of this Chapter or regulations promulgated thereunder is a nuisance and the Board or the District Attorney may, in addition to other remedies provided by law or by this Chapter, institute injunction, mandamus, abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such storage, accumulation, collection, transportation or disposal.

(B) The provisions of this Section are in addition to and not in lieu of any criminal prosecution penalties provided by this Chapter or State law.

[Adopted 71-042 §7.03 eff 3/31/71]

530.930 Penalties

Violation of any of the provisions of this Chapter is a Class “A” infraction, and may be enforced pursuant to the Linn County Enforcement Chapter.

[Adopted 71-042 §7.04 eff 3/31/71; amd 88-536 §5 eff 10/12/88]

Statutory References and Authorities:

ORS 203; ORS chapter 459; OAR

Legislative History of Chapter 530:

Adopted 71-042 eff 3/31/71

Amendments to 71-042 and LCC 6.10:

- #1 82-038 eff 3/3/82
 - #2 82-176 eff 8/24/82
 - #3 83-170 eff 9/6/83
 - #4 83-460 eff 1/1/84
 - #5 84-128 eff 3/28/84
 - #6 88-536 eff 10/12/88
 - #7 95-177 eff 5/10/95 (renumbering)
 - #8 03-335 §1 eff 9/10/03
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