

ARTICLE SEVEN -- ENVIRONMENT AND HEALTH

DIVISION ONE - SOLID WASTE

SECTION 07.01.010                      RESERVED

SECTION 07.01.020                      RESERVED

SECTION 07.01.030                      PURPOSE AND POLICY

The purpose of this Division is to protect the health, safety and welfare of the people of Coos County and, pursuant to the provisions of ORS Chapter 459 and ORS Chapter 203, to provide for a program relating to the collection, disposal, recovery and management of wastes and solid wastes within Coos County and to:

- (1) Provide for safe and sanitary accumulation, collection, transportation, storage and disposal, including resource recovery of wastes and solid wastes.
- (2) Prevent uncontrolled dumping of wastes and solid wastes on public and private property.
- (3) Provide a planning implementation method for adequate waste and solid waste control, disposal and recovery.
- (4) Be part of a program of control of waste and solid waste in cooperation with federal, state and local agencies responsible for the prevention, control or abatement of air, water and ground pollution.
- (5) Provide for sanitary, efficient and economical ways of waste and solid waste collection, disposal and recovery.
- (6) Provide minimum standards for collection of waste and solid waste and for disposal or recovery thereof.
- (7) Provide for technologically and economically feasible resource recovery by and through the franchisee(s).

SECTION 07.01.040                      DEFINITIONS

- (1) General Definitions. In this Division, words used in the present tense include the future, the singular number includes the plural, the word "shall" and "will" are mandatory and not directory, where the masculine appears it shall include the feminine, and the term "this Division" will include amendments hereinafter adopted and made to this Division.

- (2) Specific Definitions. As used in this Division, unless the context requires otherwise:
- (a) "Advisory Committee" means the Solid Waste Advisory Committee whose members are appointed by the Coos County Board of Commissioners pursuant to a resolution of the Board.
  - (b) "Board" means the Board of Commissioners of Coos County.
  - (c) "Collection Vehicle" means any vehicle used to collect or transport waste or solid waste.
  - (d) "Collector" means a person authorized by Coos County, local governmental units or state agencies to collect, transfer or transport waste and solid waste within Coos County.
  - (e) "Combustible Waste" means all waste or solid waste capable of incineration or burning.
  - (f) "Compensation" means type of consideration paid for service including but not limited to direct or indirect compensation by tenants, licensees or similar person.
  - (g) "Compost Pile" means a location bordered and confined by earth, metal, wood or other solid materials that is used for the controlled storage and decomposition of vegetable materials for use as a fertilizing agent in agricultural or garden sites.
  - (h) "County" means Coos County, Oregon.
  - (i) "County Disposal Site" means a waste or solid waste disposal site, of any kind, owned, leased to, or operated by the County.
  - (j) "Demolition and Construction Waste" means bulky, nonputrescible materials consisting of, but not limited to, nonsalvaged building demolition materials and land clearing debris.
  - (k) "Dispose" or "Disposal" means accumulation, storage, collection, transportation, disposal of or resource recovery from wastes or solid wastes.
  - (l) "Disposal Site" means land and facilities used for the disposal, handling or transfer of or resource recovery from solid wastes, including but not limited to dumps, landfills, resource recovery facilities, incinerators for solid waste or waste delivered by persons hauling their own solid wastes or for solid waste collection service, and composting plants; but the term does not include a facility subject to the permit requirements of ORS 468.740, a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is

used by the public either directly or through a solid waste collection service, or a site licensed pursuant to ORS Chapter 822.

- (m) "Franchise" means a franchise to operate a waste or solid waste disposal site or resource recovery facility or collection service, including collection, transfer and transport, issued by the Board pursuant to this Division.
- (n) "Hazardous Waste or Solid Waste" means waste or solid waste that is dedicated by ORS Chapter 459 or regulations of the Environmental Quality Commission thereunder or by the Board pursuant to Section 05.01.070 to be hazardous.
- (o) "Incinerator" means any combustion device specifically designed for the reduction, by burning, of solid, semi-solid or liquid wastes.
- (p) "Industrial Waste" means waste or solid waste resulting from any process of industry or manufacturing or from the development or recovery of any natural resources.
- (q) "Landfill" means a disposal site operated by means of compacting and covering waste or solid waste at specifically designated intervals but not necessarily each operating day.
- (r) "Person" means any individual, firm, association, sole proprietorship, partnership, non-profit corporation, corporation, joint stock company, cooperative, joint venture or other private legal entity or any public agency or a municipal corporation.
- (s) "Putrescible Material" means any organic material that can decompose and may give rise to four-smelling or offensive odors or products.
- (t) "Regulations" means regulations adopted pursuant to this Division and promulgated by the Board by resolution or order, unless otherwise specified herein.
- (u) "Resource Recovery" means the process of obtaining useful material or energy resources from solid waste and includes:
  - (A) "Energy recovery" means recovery in which all or a part of the solid waste materials are processed to utilize the heat content, or other forms of energy, of or from the material.
  - (B) "Material recovery" which means any process of obtaining from solid waste, by presegregation or otherwise, materials which still have useful

physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose.

- (C) "Recycling" which means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identities.
- (D) "Reuse" which means the return of a commodity into the economic stream for use in the same line of application as before without change in its identity.
- (v) "Rules" means rules promulgated by state agencies pursuant to Oregon Revised Statutes, as amended.
- (w) "Salvage, Removal or Recycling Operations" means the practice of retrieving reclaimable materials including but not limited to paper, metal, bottles, rags and other waste objects for the purpose of resale, recycling or reuse.
- (x) "Sanitary Landfill" means a disposal site regulated by the Environmental Quality Commission and operated by means of compacting and covering wastes or solid wastes, at least once each operating day.
- (y) "Service" means the collection, storage, transportation, disposal of or resource recovery from waste and solid wastes.
- (z) "Service Area" means the geographical area in which the operation of a waste or solid waste disposal site, resource recovery facility or collection or transfer service, made pursuant to this Division, can be economically, safely and effectively provided by a person.
- (aa) "Solid Waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; commercial, demolition and construction wastes, discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semi-solid wastes, dead animals and other wastes, but the term does not include:
  - (A) Hazardous wastes.
  - (B) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals or the practice of silviculture.
- (bb) "Waste" means material that is no longer

useable by or that is no longer wanted by the source of the material, which material is to be disposed of or be resource recovered by another person. However, the term "waste" shall not include any material which is the subject of a sales transaction by the source of the material for actual monetary consideration and involving materials for which a recognized market exists and which requires or involves no processing prior to such sale by the source. A payment of merely nominal consideration to the source of material shall not exempt such material from the definition of the term "waste" if in fact the true consideration is merely the collection, transportation, disposal or recovery of the waste material.

SECTION 07.01.050

ADMINISTRATION

The Board of Commissioners shall be responsible for the administration and enforcement of this Division and may delegate the authority for the administration and enforcement of this Division to a person or persons. In order to carry out the duties imposed by this Division, the Board or its designee(s) shall have the authority to administer oaths, certify to all official acts, subpoena and require the attendance of witnesses at public hearings before the Board; require the production of relevant documents at public hearings; swear witnesses; take testimony of any person by deposition; enter, or authorize personnel to enter, upon the premises of any person regulated by this Division to determine compliance with this Division and the regulations promulgated by the Board pursuant thereto.

SECTION 07.01.060

SOLID WASTE ADVISORY COMMITTEE

- (1) There is hereby created a nine member Solid Waste Advisory Committee, hereinafter called the "Advisory Committee", consisting of:
  - (a) Two persons holding solid waste collection, transport, disposal site or resource recovery facility franchises in the incorporated or unincorporated territory of Coos County or an employee or designee of such a franchise holder.
  - (b) Three citizens of Coos County, one of which shall be a representative of the recycling industry and one who is not served by any collection franchise.
  - (c) Two persons representing the Cities of Coos Bay and North Bend.
  - (d) Two persons representing the Cities of

Coquille, Myrtle Point, Bandon, Lakeside and Powers.

- (e) The Coos County Health Officer and/or designee and the Coos County Solid Waste Director shall be ex-officio members of the Advisory Committee but shall serve only an advisory role and shall have no voting rights regarding the business of the Advisory Committee.
- (2) Members of the Advisory Committee shall be appointed by the Board with staggered terms as determined by the Board. The Board shall seek the input of the franchise holders, City Councils and the public prior to making the appointments.
- (3) Appointment to the Advisory Committee. Members of the Advisory Committee shall be appointed by the Board for a term of three (3) years and shall serve until their successors are appointed and qualified; provided that in the first instance the terms of the initial members shall be staggered for one (1), two (2) and three (3) years. Vacancies shall be filled by the Board for the unexpired term.
- (4) Meeting of Advisory Committee. The Advisory Committee shall meet at such time as deemed necessary or as called by the Board. The Chair or a majority of the members of the Advisory Committee shall have the power to call meetings.
- (5) Duties of the Advisory Committee. The Advisory Committee shall advise the Board on the interpretation, enforcement or amendment of this Division and any franchise issued hereunder. Additionally, the Advisory Committee shall advise the Board generally on the matter of collection, transfer, disposal, recycling or resource recovery of solid waste.
- (6) Regional Solid Waste Advisory Committee. If agreement is reached with one or more cities or counties pursuant to the terms of this Division for regional franchising for the collection, disposal or resource recovery of waste or solid waste, the Board may appoint one or more members of the Advisory Committee to serve on a Regional Committee established by such agreement to advise the Boards of City Councils in the affected counties or cities.

SECTION 07.01.070

REGULATIONS

- (1) The Board may promulgate reasonable regulations pertaining to such requirements as may be necessary from time to time to protect the public health, safety and welfare, to meet the rules of the Oregon State Environmental Quality Commission

or the United States Environmental Protection Agency and to effect the efficient administration of this Division.

- (2) The regulations may concern collection, transfer, storage, accumulation, disposal, recycling and resource recovery of wastes and solid wastes, including, but not limited to, the following:
  - (a) Accumulation, storage, collection, transfer, disposal of or resource recovery from wastes or solid wastes to prevent;
    - (A) vector production and nuisance;
    - (B) conditions for transmission of disease to people or animals;
    - (C) air pollution by dust, fumes, gas, smoke, odors or particulate matter or any combination thereof;
    - (D) pollution of surface or underground waters; or
    - (E) hazards to service or disposal workers or to the public.
  - (b) Disposal site, with respect to adaptability of the site to the population served, topography and geology of the area, protection of ground and surface water, air pollution, accessibility, longevity, resource recovery, ultimate site use, standards of design, management and operation, regulation and limitation of resource recovery and protection of adjacent or nearby residents.
  - (c) Safe handling or management of hazardous wastes, solid wastes and wastes.
  - (d) Such other regulations deemed necessary by the Board to carry out the purpose of this Division and to protect public health, safety and welfare.
  - (e) Disposal of recovery of industrial wastes at County or franchised sites.
- (3) Regulations adopted by the Board pursuant to this Division shall become a part of the terms of each franchise. If necessary to meet an emergency, the regulations will become effective upon their adoption at a Board meeting called for such purpose provided that all members of the Board present concur in the declaration of the emergency. Otherwise, such regulations shall be considered by the Board at a meeting, and notice of consideration and possible adoption of the regulations shall be given by mail to all franchisees that may be affected by the proposed regulations at least twenty (20) days prior to the time the regulations are to be considered. Additionally, the topic of the proposed regulations or a copy of the regulations, if prepared, will be posted on the bulletin board at the Courthouse in Coquille, and the Coos County

Annex in North Bend, not less than ten (10) days prior to the meeting to consider the regulations.

Except in cases of emergency any regulations so adopted will be effective not less than ten (10) days after their adoption, and the resolution or order adopting the regulations shall be posted at any affected disposal site or resource recovery facility not less than five (5) judicial days after adoption. Removal of the regulations by vandalism or other cause shall not delay or invalidate the regulations.

- (4) No regulations shall be adopted pursuant to this section which would have the effect of hindering fair and honest competition or placing unreasonable restraints on commerce. Any person who believes that this Division or a regulation adopted pursuant to this Division has such an effect may present a protest to the Coos County Board of Commissioners. The Coos County Board of Commissioners shall then promptly review the protest and conduct an administrative review for the purpose of determining whether the regulation may be in violation of any anti-trust laws. The purpose of this procedure is to provide a prompt and expeditious resolution of any alleged anti-trust violations.

SECTION 07.01.080

EXCEPTIONS TO ORDINANCE REGULATIONS

- (1) Except as otherwise specifically provided herein, this Division shall not apply:
  - (a) Within the incorporated limits of any city except as may be agreed to by the city and the county pursuant to Section 07.01.150.
  - (b) As to terms and rates to be charged for collection service, to the federal government, any state or municipal government, including Coos County, or any agency thereof; nor to those who contract with the federal or state government or any agency thereof. This exemption shall not apply to disposal on the disposal site owned or operated by the County or by a franchise issued under this Division.
  - (c) To recycling or resource recovery rights of the collector granted by Coos County which are in effect within forty-five (45) days of the adoption of this Division, and any renewal thereof; provided, however, that such salvage and resource recovery rights shall be limited to the salvage and recovery without restriction to weight or volume, of the following materials:
    - (A) cardboard;

- (B) ferrous metals;
  - (C) automobile bodies;
  - (D) white goods;
  - (E) glass; and
  - (F) such other wastes or solid wastes as agreed upon between the collector and the disposal site operator.
- (d) To solid waste recycling operations of nonprofit public service organizations and nonprofit community based recycling centers in existence thirty (30) days prior to the date of adoption of this Division, provided that an application is made within one hundred twenty (120) days of the date of adoption of this Division and the applicant has established to the satisfaction of the Board, that the operation:
- (A) Was in existence thirty (30) days prior to the adoption of Solid Waste Ordinance No. 1, adopted August 28, 1974;
  - (B) Is in existence as of the date of the application; and
  - (C) Does not constitute a nuisance or hazard to the public; and
  - (D) Is satisfactorily serving the public need and interest in disposing or recycling of solid waste.
- (e) to all recycling or resale of materials by organizations, businesses, or private persons provided that they involve the following materials:
- (A) Reconditionable household furnishings and appliances, or
  - (B) Personal effects such as clothing, tools and sporting goods.
- and the operation does not constitute a nuisance or hazard to the public and is satisfactorily serving the public need and interest in disposing or recycling of such materials.
- (f) to reuse or beverage containers or operations incident thereto under that portion of ORS Chapter 459, commonly referred to as the "bottle bill".
- (g) to establishment or operation of an industrial solid waste disposal site under a permit by the Oregon Department of Environmental Quality and in compliance with that permit and all applicable statues, rules and regulations of other governmental units having jurisdiction and provided further that the Board may direct that all or part of such waste be delivered to a disposal site operated by the County or franchisee for disposal or recovery.

- (1) In areas defined by the Board to be franchised for solid waste collection, transfer or transportation, no person shall store, collect, transfer, or transport any waste or solid waste for compensation unless such person is franchised pursuant to the terms of this Division.
- (2) Except as herein provided, no person may create or maintain a waste or solid waste disposal site. Any site licensed or permitted to operate by written license or permit from the Environmental Quality Commission (EQC), State of Oregon, may continue such operation until such permit or license is revoked or has expired, provided that the operator apply for a disposal franchise pursuant to the terms of this Division within thirty (30) days after the effective date of this Division.
- (3) Except as provided herein, no person shall collect, transport or transfer solid waste or waste for compensation without a franchise, unless such operation was carried on by such person on the effective date of this Division and the person providing that service applies for franchise within thirty (30) days after the effective date of this Division. Such person may continue operating within the area served on the effective date until final determination is made on a franchise for that service area.
- (4) Except as herein provided, no land or facility shall be used within the County as a waste or a solid waste disposal site or operation without having first been duly authorized by the Board.
- (5) Nothing in this section shall require a collector to remove any material, the storage, collection or transportation of which is prohibited by governmental agency order or regulation or which is hazardous to the collector or the collector's employees or which could be reasonably expected to cause damage to collection equipment or cause a hazard or nuisance to the public.
- (6) No person shall intentionally deposit at the disposal site any material or substance which is not defined as solid waste by the terms of this Division unless permitted or authorized by the Board, in the case of County disposal sites, or the franchisee.
- (7) Nothing in this section shall prohibit the storage of vegetable material in a compost pile for use in agricultural or residential purposes so long as the compost pile is not unsightly, produces no offensive odors, and does not create health hazard; and providing that the compost pile exists on land owned or occupied by the maker and user

- thereof.
- (8) Nothing in this section shall prohibit an individual from transporting and disposing of waste or solid waste generated by the person on the person's own property, or property rented or leased to or by that person, so long as such transportation and disposal does not result in a health hazard, create a nuisance, be unsightly or violate the rules of the Environmental Quality Commission.
  - (9) No person shall transport or carry refuse in or on a motor vehicle or trailer upon a public road within the jurisdiction of Coos County unless such refuse is:
    - (a) completely covered on the sides, top and bottom thereof and such cover is either a part of or securely fastened to the body of such motor vehicle or trailer; or
    - (b) such refuse itself is securely tied to the body of such motor or trailer; or otherwise contained in the body of the motor vehicle or trailer in such a way so that no piece, article or part of such refuse is likely to sift, leak or otherwise escape therefrom.

SECTION 07.01.100

TRANSPORTING WASTE AND SOLID WASTE

Any person, firm, corporation or entity of any kind transporting waste and solid waste for any purpose, whether public or private, must secure the waste or solid waste in such a manner that no waste or solid waste shall escape from the container in the vehicle in which it is transported, no health hazards occur as a result of such transportation and unpleasant odors and unsightly conditions are minimized.

SECTION 07.01.110

SOLID WASTE ACCUMULATION PROHIBITED

- (1) Except as otherwise provided in this section, it shall be unlawful for any person to store, deposit, maintain or display on private property, wastes or solid wastes that:
  - (a) are hazardous to the health or safety of the public; or
  - (b) create offensive odors; or
  - (c) create a condition of unsightliness; or
  - (d) create a fire hazard.Storage, collection, maintenance or display of wastes or solid wastes in violation of this subsection shall be considered a public nuisance which may be abated pursuant to Section 07.01.430. [94-03-004L]
- (2) This section shall not apply to:
  - (a) Areas within the limits of incorporated

cities, unless an agreement is duly entered into and executed between Coos County and the city, pursuant to ORS 190.003 through 190.250.

- (b) Disposal sites franchised pursuant to the provisions of this Division, provided that such disposal sites comply with this Division, and all rules and regulations adopted pursuant thereto.
- (c) Agricultural operations and the growing or harvesting of crops and the raising of fowl or animals, or other agricultural practice or silviculture where:
  - (A) The accumulation of waste or solid waste is a necessary agricultural operation;
  - (B) The accumulation of waste or solid waste is conducted in such a manner as to create no fire, health or safety hazard to the public; and
  - (C) The accumulation of waste or solid waste is performed in conformance with the regulations enacted pursuant to this Division.

SECTION 07.01.115

ABANDONED VEHICLES WITHIN URBAN  
GROWTH AREAS

[Adopted Section 115 of Article Seven, Division One on April 20, 1994]

- (1) No person shall store, or permit to be stored, more than two abandoned vehicles on any property located within an urban growth area designated by the Coos County Comprehensive Plan, unless such storage is authorized by the Coos County Zoning and Land Development Ordinance.
- (2) As used in this section, "abandoned vehicle" means motor vehicle that is inoperable, and/or incapable of being licensed under the Oregon Vehicle Code, and stored outside of an enclosed garage or building. As used in this section, "abandoned vehicle" includes vehicle parts.

SECTION 07.01.120

SALVAGE, REMOVAL OR RECYCLING  
OPERATIONS

- (1) Except as otherwise permitted in Section 07.01.080, salvage, removal or recycling operations in the unincorporated areas of Coos County shall be conducted only with the written authorization of the Board. The Board may adopt such regulations as are deemed necessary to protect public health, safety and welfare and that

- carry out the purposes of this Division.
- (2) The Board may revoke authorization for salvage, removal or recycling operations when it finds that the operator
    - (a) has failed to follow the applicable provisions of state law, this Division, the rules of the Environmental Quality Commission or Environmental Protection Agency, or the regulations adopted under this Division; or
    - (b) is operating in such a manner so as to constitute a nuisance or a hazard to the public; or
    - (c) has ceased operation for a continuous period exceeding ninety (90) days, or is not carrying out service under this Division and applicable federal, state and local laws, rules and regulations and where the cessation of operation has not been the result of strikes or acts of God.
  - (3) Revocation of authorization to conduct a salvage, removal or recycling operation will be pursuant to Section 07.01.380
  - (4) No person shall recover solid waste from a County disposal site unless permitted to do so by contract with Coos County.

SECTION 07.01.130

GRANTING FRANCHISE

- (1) Separate franchises shall be issued for separate service areas. Separate franchises may be issued for collection, including collection, transfer and transport, a disposal site or a resource recovery facility.
- (2) Where the Board finds that a person is providing adequate collection service to a service area on the effective date of this Division and is qualified to provide the service under the terms of this Division, the Board shall grant a collection franchise to such person; provided, however, if there are two or more persons providing service in the service area:
  - (a) The qualified collector using proper collection vehicles and having a majority of service customers on the effective date of this Division shall be granted the franchise.
  - (b) (A) The person granted a franchise under Subsection 2(a) of this Section shall compensate the owner of other service or services rejected for the franchise at the fair market value of such business for customers served on the effective date of this Division and upon mutually agreeable terms and conditions.
    - (B) Nothing in this paragraph shall create

any liability on the part of the County, the Board or any agent or employee of either for any compensation of any kind whatsoever under this subsection. Nor shall the County or any of its agents or employees be responsible for resolving disputes concerning the terms and conditions of compensation between the collector granted a franchise and the owner of other service or services rejected for the franchise.

- (c) Subsection 2(a) and 2(b) of this Section do not apply to drop box or roll off box franchises. Where the Board finds that two collectors with overlapping service have agreed to resolve the conflict by taking the service area and the other the franchise for existing customers and the Board further finds that such agreement conforms to the purposes stated in Section 07.01.030 and the standards stated in Section 07.01.160, it shall approve the agreement and issue appropriate franchises.

SECTION 07.01.140

FRANCHISING ADJACENT TO CITIES

Where collection service is not being provided on the effective date of this Division or the collector does not qualify for a franchise or the franchise has been revoked under Section 07.01.380, the County may grant a franchise for garbage and rubbish collection in a service area adjacent to the city to a person who is licensed or franchised by the city.

SECTION 07.01.150

JOINT OR REGIONAL FRANCHISING

The Board may enter into an agreement with any city, county or public agency for joint or regional franchising of collection, transfer, disposal or resource recovery services or sites and provide, by regulation, for matters pertaining to the modification and termination of franchises.

SECTION 07.01.160

ALLOCATION OF SERVICE AREAS

- (1) A franchise to provide collection of waste or solid waste in a portion of the County outside a city shall be granted only after a determination of need for the service. If one person has been franchised to provide a particular type of collection, another person shall not be franchised to provide the same service in the same area, except as otherwise provided by this Division.

- (2) The determination of need is the responsibility of the Board which shall seek to gain the best balance of the following objectives:
  - (a) To provide the most effective service at the least cost;
  - (b) To avoid duplication of service routes that will cause inefficiency or excessive use of fuel;
  - (c) To provide service in areas of marginal return;
  - (d) To improve the franchisee's likelihood of making a reasonable profit and thereby encouraging investment in modern equipment;
  - (e) To cooperate with cities by recognizing their service arrangements; and
  - (f) To otherwise provide for the service in a manner appropriate to the public interest.

SECTION 07.01.170

APPLICATION AND FRANCHISE  
REQUIREMENTS

- (1) An application for a franchise shall be under oath on a form provided by the Board. A nonrefundable fee, as determined by the Board pursuant to Article Nine, Division One of the Coos County Code, for processing the application is required and must accompany the application. In addition to information required on the form, the Board or its designee may require the filing of any additional information deemed necessary to insure compliance with this Division. An application for a collection, transfer, or transport franchise shall state the types of service to be provided and shall supply information required to determine compliance with the applicable section of this Division. Where a DEQ permit is required, an applicant for a disposal or resource recovery franchise shall file the required permit application with DEQ and furnish the County with a copy of the application.  
[91-06-007L]
- (2) General Requirements for Collection, Transfer, Disposal or Resource Recovery Franchises. The applicant must show to the satisfaction of the Board that the applicant:
  - (a) Has available equipment, facilities and personnel to meet the standards established by this Division, applicable state and federal laws, and local, state and federal rules and regulations.
  - (b) Has good moral character, or if the applicant is not a natural person, that the principle partners, owners, shareholders or officers are of good moral character. In determining

whether the applicant is of good moral character, the Board may consider evidence of conviction of crimes involving injury to persons or property, or crimes involving fraud or deception.

- (c) Has sufficient personnel experienced in the operation of the service to be franchised, considering the type, duration, volume of waste or solid waste, weather conditions, and methods of operation to assure ability to comply with Chapter 459 Oregon Revised Statutes (ORS), the rules of the Environmental Quality Commission, applicable federal laws and regulations, the terms of this Division and the regulations of the Board of Commissioners.
- (d) Has, as a condition of this franchise, submitted within ten (10) days after the grant of the franchise by the Board, but before issuance of the franchise, cash or a corporate surety bond, in the amount of five thousand (\$5,000.00) dollars.
- (e) In cases of emergency declared by the Board and concurred in by all members present and voting, where the public interest probably would suffer material injury by delay or other cause, the Board may extend the time for submission of the corporate surety bond for an additional period not to exceed thirty (30) days and issue a temporary franchise on presentation of a certificate of insurability by the franchisee.
  - (A) The corporate surety bond provided for in this subsection shall be issued by a company authorized and licensed to do business as a surety in the State of Oregon.
  - (B) If, during the term of the franchise, the surety corporation be insolvent, or revoke or otherwise cancel the surety obligation, the applicant, as a condition for the continuation of this franchise, must submit cash or a new corporate surety bond in the same amount as originally procured upon the grant of the franchise or an amount equal to the gross receipts actually accrued by the franchisee for the prior year, which ever is greater. Such new corporate surety bond must be submitted to, and approved by the Board within thirty (30) days of such insolvency, revocation or cancellation of surety. Such new corporate surety bond shall fulfill all the conditions of the original surety

obligation provided for by this Division.

- (C) Said corporate surety bond shall be approved by the Board and shall guarantee the full and faithful performance of the franchisee for the term of the franchise, and shall specifically include:
  - (1) Payment for all wages, materials and supplies and insurance premiums necessary to fulfill the provisions of this Division and rules and regulations;
  - (2) Workers' compensation premiums;
  - (3) A provision that the franchisee, the franchisee's agents and servants, shall fully and faithfully comply with all the terms, conditions, provisions and requirements contained in this Division and rules and regulations; and
  - (4) that the franchisee shall hold Coos County harmless from any expense incurred through the failure of the franchisee, the franchisee's agents and servants to operate and maintain a service as required by this Division and rules and regulations, and shall provide for the payment of insurance premiums sufficient to insure the County for any loss which would subject the County to liability arising out of the operation of the service including any expense to which Coos County may be put to correct any condition or violation of this Division, rules or regulations, by Coos County's own labor and equipment, whenever the Board determines, after notice and public hearing, that it is necessary to correct any condition in violation of this Division or for any damages arising out of the negligence of the franchisee, the franchisee's agents or servants.
- (D) Said corporate surety bond shall be in full force and effect for the term of the franchise;
- (f) Has sufficient financial ability to meet the obligations imposed by this Division, rules and regulations in the disposal of any and all waste and solid waste proposed to be

disposed of by the applicant for the term of this franchise. The person applying for a franchise pursuant to this Division shall submit to such financial investigation deemed necessary by the Board to determine the financial ability of the applicant. Upon application for franchise and during the term of franchise and two (2) years thereafter, the Board may investigate, as a condition of the continued enjoyment of the franchise, any financial aspect of the applicant relevant to the franchised business and may also demand copies of any annual report, articles of incorporation, evidence of net worth or any other relevant financial data. Such information is confidential and shall be returned to the franchisee on completion of investigation.

- (g) Has obtained any and all necessary permits from state and federal regulatory agencies (e.g. Department of Environmental Quality) prior to operation.
  - (h) Intends and is able to comply with Sections 07.01.330 and 07.01.340.
- (3) The bond required by Subsection 2(b) of this Section may be waived:
- (a) For a disposal franchise, if the applicant has demonstrated its capability to dispose of all waste or solid waste proposed to be disposed of by the applicant; or
  - (b) For a collection franchise, if the applicant has demonstrated by contract, franchise, permit or other evidence sufficient to the Board its capacity to provide for the disposal of all waste and solid waste collected by the applicant in the service area for which the applicant has applied; and
  - (c) In either case, met all other requirements of this Section.
- (4) If the applicant is providing service on the effective date of this Division, and has filed an application within thirty (30) days thereafter, the applicant may continue service until the final decision regarding the application is made by the Board.
- (5) During the application process, and at any time should a franchise be granted, any cumulative change in excess of ten (10) percent of ownership thereof, must be reported to the Board within thirty (30) days of such change of ownership.

SECTION 07.01.180

DETERMINATION OF RATES

- (1) The Board may approve and establish existing 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 or other areas under similar service requirements and for the same or similar quality of service or it may establish a different rate schedule. In determining whether rates are reasonable under this subsection, the Board shall give due consideration to the rate guidelines established by this section.

- (2) The Board may establish uniform rates throughout the County, or may establish uniform rates within zones based upon the length of haul or other factors which may, in the option of the Board, justify establishment of rate differentials.
- (3) When establishing rates for disposal sites, in addition to other factors specified in this section, the Board shall consider the type of site, the cost of operation of such site, whether or not the site is open to the public, the type of waste to be disposed of and cost of compliance with federal, state and local laws and regulations together with such other factors which may in the opinion of the Board affect the rates to be charged. The Board may establish uniform rates for all disposal sites or may establish different rates based upon the factors specified in this section.
- (4) Increases or decreases in rates approved under this section shall not be made by the Board unless the Board finds that the increase or decrease is based upon a change in the cost of doing business or change in the type or quality of service available or proposed.
- (5) In determination of rates or proposed rate charges, the Board shall give due consideration to: the investment in facilities and equipment; the services of management; local wage scales; the concentration of customers in the area serviced; methods of storage, collection, transportation, disposal or resource recovery; the length of haul to disposal facilities; the cost of disposal; a reasonable return to the owners of the business; projected revenues and expenses; the future service demands of the area or site which must be anticipated in equipment, facilities, personnel or land; extra charges for special pickups or pickups on days where service is not normally provided on a route; extra charges where the type or character of waste or solid waste, including not limited to wastes with peculiarly offensive odors, requires special handling or service and extra charges for providing janitorial services on the premises where service is provided.

- (6) The Board may require an investigation by the Advisory Committee of any proposed rate or rate increase or decrease. For the purpose of making this investigation, the Advisory Committee, in cooperation with the Board of Commissioners or its designee, is authorized to hold public hearings and to take and receive testimony relevant to the considerations to be made by the Board in establishing a rate or in allowing or denying the rate increases or decreases under this Division. Upon completion of its investigation, the Advisory Committee shall make a report of the public hearing and shall make recommendations to the Board regarding the proposed rate.
- (7) In establishing rates or in considering rate increases or decreases, the Board must find that the rates will be just, fair, reasonable and sufficient to provide proper service to the public. The Board may consider the rates charged by other persons performing the same or similar service in the same or other areas.
- (8) Where no rate has been established for a particular type of service, the Board may establish an interim rate until the Board makes a final determination on the rate for that type of service. In establishing such a rate, the Board shall give due consideration to all of the factors established as guidelines for the Advisory Committee and Board in this section.

SECTION 07.01.190

ISSUANCE OF FRANCHISES

- (1) All applications for franchises shall be reviewed by the Solid Waste Director, the Health Department, the Planning Department, County Counsel and any other officer or County department designated by the Board. Each officer or department shall make an investigation as within the interest of the department and report back to the Board of Commissioners within thirty (30) working days of receiving the application. [94-03-004L]
- (2) Public Hearing. Upon the filing of an application, the Board shall fix a time and place for a hearing thereon. Notice of the hearing shall be given to the franchise applicant, current franchisee (if any) and all persons who have made application for a franchise under this Division for the particular area or site to be franchised at least twenty (20) days prior to the hearing.
- (3) Due notice shall also be given to the general public by posting notice of the hearing on the bulletin board at the Coos County Courthouse and the Coos County Annex in North Bend not less than

twelve (12) days prior to the hearing. Additionally, notice will be given by two (2) insertions in a newspaper of general circulation with the County, not more than eleven (11) nor less than four (4) days prior to the date of the proposed hearing. Any interested person may appear and be heard orally or by a written memorandum in support of or opposition to the issuance of a particular franchise or permit or recycling or reuse authorization.

- (4) Upon the basis of the application, evidence submitted and results of any investigation, the Board shall make specific findings of fact on the following:
  - (a) qualifications of the applicant in light of the Division, statutes, rules and regulations;
  - (b) the service, equipment and facilities that are provided by the applicant; and
  - (c) conditions of service that should be imposed, including but not limited to frequency of collection and location of collection.
- (5) On the basis of its findings, the Board shall grant, deny or modify the application by written order. The order shall include specific findings of fact, and the Board may attach whatever conditions to the grant of franchise it finds necessary to meet the purposes of this Division and to protect public health, safety and welfare.
- (6) The franchisee shall, unless otherwise specified by the Board, provide all labor, tools, services and equipment necessary for the conduct of the franchise.
- (7) The franchisee shall commence operations on the date specified by the Board in the order.
- (8) No oral representation by any member of the Board or Advisory Committee shall have any effect whatsoever. All terms, conditions and other matters of the franchise shall be in writing and shall be made pursuant to a meeting of the Board.
- (9) If the Board finds that the need for public services justifies action before a complete investigation and final determination can be made, it may issue a temporary certificate, valid for a stated period not to exceed six (6) months, entitling a person to operate a disposal site or resource recovery facility or both within a defined service area.
- (10) If a request for reconsideration is filed with the Board pursuant to Section 07.01.210, the franchise granted shall be temporary only, pending a final determination under Section 07.01.210.

The franchise applicant shall be allowed thirty (30) days after notice of the grant of a franchise to accept the terms and conditions of the franchise pursuant to this Division. The failure of the prospective franchisee to file an unconditional written acceptance of this grant of franchise shall be deemed by the County to be a rejection of the franchise and the rights and privileges granted by the franchise shall absolutely cease unless the period of time for acceptance shall be extended by the Board. Such an extension shall be for not more than thirty (30) days.

SECTION 07.01.210

APPEAL FROM ADVERSE DECISIONS OF  
THE BOARD REGARDING AWARD OF  
FRANCHISES OR ESTABLISHMENT OF  
RATES

- (1) If the order of the Board is adverse to an applicant in any respect, the applicant may request reconsideration by filing with the Board a written request for hearing within ten (10) days after the date of said order.
- (2) Upon the filing of such request for reconsideration, the Board shall set a time and place for public hearing upon its order, which hearing shall not be more than thirty (30) days from the date of the request for hearing. Notice of the hearing shall be given to the applicant by mail, not less than twenty (20) days before the date that is set for hearing. Notice of the hearing shall also be posted on the bulletin board at the Courthouse in Coquille and the Coos County Annex in North Bend. The applicant or franchisee may submit relevant evidence to the Board upon the Board's order. Other interested persons or affected public agencies or private parties may offer oral or written testimony. The Board may, following the public hearing, affirm, modify or rescind its prior order.

SECTION 07.01.220

TERM OF FRANCHISE

A franchise granted under this Division for collection, transfer, transportation or disposal shall be for a period of ten (10) years and shall be considered a continuing franchise. On January 1st of each year, the franchise is, upon payment of the renewal fee specified in Section 07.01.240 below, renewed for an additional ten (10) year term unless, at least thirty (30) days prior to January 1st of that year, one party notifies the other in writing of intent to terminate the franchise. Upon the filing of such notice of termination, the franchisee shall have a franchise terminating on December 31 of the eleventh (11) year

following the date of notice of termination. The parties may later extend the term of, or reinstate, the franchise, conditioning renewal upon mutual agreement. Nothing in this section restricts the Board of Commissioners from suspending, modifying or revoking the franchise for cause as provided in this Ordinance. Failure to pay the franchise renewal fee by January 1st of each year shall constitute cause for which the franchise may be immediately terminated. However, the Board of Commissioners, in their sole discretion, may provide a ten (10) day notice and opportunity to pay the renewal fee prior to terminating a franchise for non-payment of said fee. A franchise granted under this Division for a disposal site or resource recovery facility shall be for a term determined by the Board upon the basis of public need, the purposes of this Division, financing requirements, site or facility longevity and other factors as determined by the Board. Nothing in this section shall permit the continued operation of a transfer, disposal or resource recovery facility which requires a Department of Environmental Quality permit beyond the term of such currently valid permit or any renewal thereof by the Department of Environmental Quality. [93-02-002L]

SECTION 07.01.230

TEMPORARY EXCLUSIVE AND JOINT  
SERVICE UNDER FRANCHISE

If the Board finds that an applicant for a franchise cannot provide service to a single customer, a group or type of customer, or for a particular type or unusually large quantity of solid waste, the Board may issue a franchise for joint service with another person who can provide that service and may attach such conditions in the grant as are necessary for the protection of public health, safety and welfare; provided, however, that in all cases where the Board finds that the applicant is able to provide adequate service within a defined service area, it may issue an exclusive franchise for that are to a single applicant.

SECTION 07.01.240

FRANCHISE FEES

The Board shall collect:

- (1) A fee as determined by the Board pursuant to Article Nine, Division One of the Coos County Code, for any collection, transfer or disposal site franchise. [91-06-007L]
- (2) The fees above shall be in addition to any rent that may be due on any property owned by the County and leased to a disposal site franchisee.
- (3) The provisions of Subsection (1) and (2) of this Section will apply each time there is a transfer or renewal of a franchise.

SECTION 07.01.250

USE OF FRANCHISE FEES

Fees collected pursuant to Sections 07.01.170 and 07.01.240 of this Division shall be paid into the Waste Disposal Fund of the County. Funds so collected may be used to offset the costs of administering this Division. [99-10-007L]

SECTION 07.01.260

ENFORCEMENT OF FRANCHISE PROVISIONS

The Board of Commissioners or its designee shall, upon reasonable cause, make an investigation to determine if sufficient reason and cause to suspend, modify, revoke or refuse to renew a franchise as provided by this Division exists. If there is sufficient evidence to constitute a violation of this Division, state or federal laws, or rules or regulations, the Board of Commissioners, on its own motion or on notification from the Board's designee or the Solid Waste Advisory Committee, shall proceed under Section 07.01.390.

SECTION 07.01.270

CANCELLATION OF FRANCHISE BY  
FRANCHISEE

- (1) The franchisee shall have the option to cancel and terminate this franchise during the franchise term or any renewal period upon sixty (60) days notice, subject to the "continuance of service" provisions of this Division, if any of the following conditions occur:
  - (a) Destruction of the franchisee's equipment or premises so as to render it impossible to continue service.
  - (b) In a disposal franchise, the premises or a portion of the premises is taken by the exercise of power of eminent domain or sold in lieu of the exercise of such authority so as to render the operation of the facility uneconomical, impractical or impossible.
  - (c) The service becomes subject to new or different governmental regulations which render the operation of the facility uneconomical, impractical or impossible.
- (2) In considering one of the above reasons for termination of the franchise, the termination will only be effective after a hearing by the Board and upon written request by the franchisee. Notice of the hearing will be provided by two (2) publications in a newspaper of general circulation not more than eleven (11) nor less than four (4) days prior to the hearing, along with posting at the Coos County Courthouse in Coquille and the Coos County Annex in North Bend and upon written notice posted not less than five (5) days prior to the

- date of the hearing to the Department of Environmental Quality (DEQ).
- (3) After the hearing, the Board may grant or deny the request. An appeal from the Board's decision may be taken by the franchisee by writ of review, which appeal procedure is exclusive.
  - (4) Nothing in this Division shall require any person to provide service where a court or governmental agency having jurisdiction has ordered the curtailment or termination of such service whether for a limited time or permanently and during the duration of such order.

SECTION 07.01.280

CANCELLATION OF A DISPOSAL  
FRANCHISE BY COUNTY

- (1) Any disposal franchise granted to a private operator to operate a County owned disposal site may be canceled at the option of the County upon sixty (60) days notice to the franchisee if any of the following conditions should occur:
  - (a) Should the franchisee's equipment or premises be destroyed so as to render it impossible to continue service.
  - (b) If the County, pursuant to its own motion or pursuant to the lawful order or regulation of any court or agency having jurisdiction there over, should issue new rules or regulations which render the operation of the facility impractical, impossible or uneconomical.
  - (c) If the County should, on its own motion, wholly or partially divert County disposal services from landfill or sanitary landfill to incinerator, energy recovery, or such other activities as the Board determines are not compatible with the landfill or sanitary landfill operation.

SECTION 07.01.290

PREVENTING INTERRUPTION OF SERVICE

- (1) The franchisee shall agree, and it is a condition of obtaining and holding the franchise, that whenever the Board finds that failure of service for any reason, including but not limited to acts of God or work stoppages, whether or not through the fault of the franchisee, would result in the creation of a health hazard or public or private nuisance, the Board shall, after reasonable notice, but not less than twenty-four (24) hours notice to the franchisee, or after a public hearing, if the franchisee requests a hearing within twenty-four (24) after receipt of notice, have the right to authorize another franchisee or

person or Coos County to provide service or use and operate the land, facilities and equipment of the franchisee through leasing or otherwise in the event of serious interruption of service to all or a class or group of customers for so long as such interruption continues.

- (2) If the Board orders that another person or Coos County provide service or use or operate the land, facilities or equipment of the franchisee pursuant to Subsection (1) of this Section, the franchisee shall be liable for any expense, in excess of service receipts, incurred by such persons pursuant to said order and Coos County shall be entitled to any and all service receipts that may reasonably be apportioned to the time the County or other person operates the service. The County may collect the service receipts from the user or the franchisee.

SECTION 07.01.300

TRANSFER OF FRANCHISES

- (1) A franchisee may transfer the franchise or any rights incidental thereto, or portion thereof, to other persons only upon written notice to, and approval by, the Board.
- (2) The Board shall approve the transfer if it finds the transferee meets all applicable requirements as if the transferee were an applicant for a franchise. The Board shall approve or disapprove any application for transfer of a franchise within a reasonable time.
- (3) The Board may permit the 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 Division.
- (4) The new franchisee will be responsible for fees assessed in Section 07.01.240.
- (5) The Board may attach whatever conditions it deems appropriate to guarantee maintenance of service.

SECTION 07.01.310

RATE PREFERENCE PROHIBITED

- (1) No franchisee subject to rate regulation under this Division shall give any rate preference to any person, type of service or locality for the collection, transfer, disposal or resource recovery of any type of solid waste or waste.
- (2) Nothing in this section is intended to prevent:
  - (a) 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.

- (b) Any person from volunteering service at reduced cost for a charitable, community, civic or benevolent purpose.
- (c) Reduced collection rates for fixed or low income persons as a class.

SECTION 07.01.320

DEPARTMENT OF ENVIRONMENTAL QUALITY  
(DEQ) PERMITS

It will be the responsibility of the franchisee to determine and know whether permits from the Department of Environmental Quality (DEQ) or the Environmental Protection Agency are required for the franchisee's operation, whether it be for transfer, collection or disposal of waste and solid waste, and it will be the franchisee's responsibility to maintain, during this franchise, whatever permit may be required for the franchisee's operation and the franchisee shall comply with all rules and regulations of the Department of Environmental Quality (DEQ) and the Environmental Protection Agency as presently existing or as may be adopted or amended relating to the operation of the franchisee's service.

SECTION 07.01.330

LIABILITY INSURANCE

The franchisee, not at County expense, shall, during the term of the franchise, maintain comprehensive general liability insurance to the full extent of liability limitations set forth in ORS 30.270 and any amendments thereof. The County shall be named as co-insured. Prior to the commencement of operations, the County shall receive proof of insurance and it shall be a condition of such insurance that said insurance will not be terminated without thirty (30) days prior written notice to the Board and the insured. Cancellation of insurance, without immediate replacement insurance with no loss or lapse of coverage, shall be cause for immediate termination of the franchise without recourse.

SECTION 07.01.340

INDEMNITY

The franchisee shall indemnify and hold the County harmless from and against all claims and demands for loss or damage arising out of or in connection with the service provided by the franchisee or by any other person claiming by, through or under the franchisee, including any accident or fire or any nuisance made or suffered.

SECTION 07.01.350      SPECIFIC REQUIREMENTS FOR COLLECTION,  
TRANSFER AND TRANSPORT FRANCHISES

The holder of a franchise for collection or transfer:

- (1) Shall not voluntarily discontinue service in any area covered by the franchise without giving at least ninety (90) days written notice of the proposed discontinuance of service to the Board and to any customer regularly utilizing the service. No discontinuance of service to any area or portion thereof shall be made without written approval by the Board prior to the discontinuance during the term of the franchise. This subsection shall not apply to any order of foreclosure or restriction of use by any public agency, public body or court having jurisdiction. Nor shall this subsection prohibit a franchisee from refusing to provide service to a customer if the customer refuses to pay for the service or for other reasons that may be established by the Board by regulation, provided that in no event shall the holder of a franchise terminate such service without seven (7) days prior written notice to the customer of the intention to terminate service. A franchisee who has discontinued service on the basis of a customer's refusal to pay for such service may demand that the customer pay in advance or make a reasonable deposit to guarantee payment for future services before reinstating such service.
- (2) Shall provide required service, equipment and facilities, but not less than service, equipment and facilities commensurate with existing service provided within the service area defined in the franchise, within one (1) month from the date of issuance of the franchise unless the Board extends the time upon showing of reasonable grounds by the applicant. Where an area is not receiving service on the date of the application for a franchise covering such area, the Board may order that service be provided at such time as it finds to be reasonable.
- (3) May contract with another person to provide service within a service area after giving written notice to and obtaining approval of the Board of Commissioners or its designee. The Board shall approve the contract unless it finds that the quality or extent of service would be jeopardized.
- (4) May refuse service to a customer upon reasonable grounds where:
  - (a) Service of the particular location would jeopardize the safety of the driver, the collection vehicle or the motoring public;
  - (b) The customer has not provided reasonable

- access, without hazard or risk to the person providing service, to the pickup point for the container storing solid waste;
- (c) Where weather conditions, blocked road access or similar conditions prevent service to a particular customer; or
  - (d) In any case where service may be prohibited by safety rule or regulation of a federal, state or local agency.
- (5) Shall empty containers with garbage at least once every seven (7) days, or once every fourteen (14) days if included in the collector's franchise; excepting as in Subsection (4) of this Section or where an act of God prevents such collection.
  - (6) Shall maintain a bill paying station within the County or a city therein, provide a telephone service or answering service so that the business may be reached by the public on weekdays, excepting holidays during the period from 8:00 a.m. to 5:00 p.m.
  - (7) Shall, unless exempted, load and use a vehicle for collection in a manner that will prevent any escape of waste or solid waste while in transit.
  - (8) Shall respond to a request for service in the service area within a reasonable time and shall charge uniformly in the service area.
  - (9) Shall agree in the franchise to transport all collected waste and solid waste to a site, not the usual designated disposal site, upon order of the Board of Commissioners when:
    - (a) Necessary to comply with rules, regulations, or an order of a federal or state administrative agency;
    - (b) Necessary to comply with an order from a court of competent jurisdiction;
    - (c) The Board determines that the usual designated disposal site is not suitable or lacks sufficient capacity or other resources to process the type or quantity of waste generated by a significant construction, deconstruction, remediation, or other project. The order shall specify such terms and conditions of transport and disposal, including applicable franchise or other fees, as the Board finds reasonably necessary to protect the public health, safety, and welfare; or
    - (d) An emergency condition declared by the Board with all members present concurring where the emergency is the result of:
      - (A) Closure of the disposal site by order of the County Health Officer or other local, state or federal official having power to close the site to all users; or
      - (B) Damage to the site caused by man-made or

natural action resulting in closure to all users. [15-03-001L]

SECTION 07.01.360

SPECIFIC REGULATIONS TO DISPOSAL  
FRANCHISEES

The holder of a disposal franchise:

- (1) Shall not voluntarily discontinue service without giving at least ninety (90) days written notice of the proposed discontinuance of service to the Board and to any franchisee using the disposal site and further receiving the written approval of the Board prior to discontinuing said service. This paragraph shall not apply to any order for closure or restriction of use by any public agency, public body or court having jurisdiction.
- (2) May contract with another person to operate the disposal site after giving written notice to and obtaining the written approval of the Board or its designee. The Board shall approve the contract unless it finds that the quality or extent of service would be jeopardized. In making its determination, the Board shall consult the Coos County Health Department.
- (3) May refuse disposal service to any customer if the customer refuses to pay for the service. A franchisee who has discontinued service for refusal of a customer to pay for such service may demand that the customer provide a reasonable deposit or advance payment to guarantee payment for future service prior to reinstating such service.
- (4) Shall agree to terminate or suspend the franchise without penalty or cost to the County or any other person should the rules or regulations of a federal or state administrative agency or court of competent jurisdiction order the County or the franchisee to cease operation temporarily or permanently.

SECTION 07.01.370

INSPECTION FOR COMPLIANCE

The facilities of the franchisee shall be available for inspection by the County or its designee at reasonable times to determine whether the franchisee has complied and is complying with the provisions of this Division.

SECTION 07.01.380

SUSPENSION, MODIFICATION,  
REVOCATION OR REFUSAL TO RENEW A  
FRANCHISE

- (1) A franchise issued pursuant to this Division shall

be subject to suspension, modification, revocation or refusal to renew by the Board in accordance with the procedures contained herein for any of the following reasons:

- (a) Violation of any or all terms and conditions of this Division or any applicable local, state or federal laws or regulations;
  - (b) Materially misrepresenting facts or information given in the application for the franchise; or
  - (c) Willfully refusing to provide adequate service as required by this Division.
- (2) Except in cases where the Board, and all of its members present, deems an emergency to exist requiring an immediate suspension, modification, revocation or refusal to renew a franchise, the Board shall provide franchisee with thirty (30) days written notice of an alleged violation of the terms and conditions of this Division. The franchisee will have this thirty (30) day period to correct the identified violation to the satisfaction of the Board.
- (3) If the franchisee, after notice and opportunity to comply, does not correct the identified violation, the Board may, upon recommendation of the Advisory Committee or upon its own motion, initiate proceedings to suspend, modify, revoke or refuse to renew the franchise.
- (4) To initiate proceedings, the Board shall:
- (a) File the charges which are the basis for such action with the County Clerk setting forth with reasonable certainty the nature of such charges against the franchisee;
  - (b) Fix a time and place for hearing the charges; and
  - (c) Serve upon the franchisee and all other known interested parties, a copy of the charges as filed together with notice of time and place of the hearing at least ten (10) days prior to the date fixed for the hearing.
- (5) In the case of immediate suspension, modification, revocation or refusal to renew, the Board shall:
- (a) File with the County Clerk its order, including a statement of the charges set forth with reasonable certainty;
  - (b) Fix a time and place for a public hearing thereon within thirty (30) days of the date of the order; and
  - (c) Serve upon the franchisee and all other known interested parties a copy of the order as filed with notice of time and place of the hearing at least ten (10) days prior to the date fixed for hearing.

The Board may, following the hearing, affirm, amend or rescind its prior order and shall do so

- within thirty (30) days of the public hearing.
- (6) At any hearing authorized by this section, the franchisee shall have the right to appear and to defend against the charges and, if the franchisee so desires, to be represented by counsel. 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 charges or an emergency order adopted by the Board. Subject to writ or review proceedings, the determination of the Board be final.
  - (7) If, at the hearing, the Board suspends, modifies, revokes or refuses to renew the franchise permit, the action shall not become effective until thirty (30) days after the date of the order; except that where the Board finds, and all members present concur, there is a serious immediate danger to the public health, welfare and convenience, the order will be effective immediately. In the case of a hearing on an order of the Board pursuant to Subsection (2) or (5) of this Section, the Board may affirm, rescind or amend its prior order and shall do so within thirty (30) days of the hearing. The order shall be effective as of the date stated herein.
  - (8) In lieu of immediate suspension, modification, revocation or refusal to renew a franchise pursuant to Subsection (2) or (5) of this Section, the Board may order compliance and make the suspension, modification, revocation or refusal to renew contingent upon compliance with the order of the Board within the time period stated therein. No public hearing shall be set until the stated time period for correction of the alleged violation has elapsed.
  - (9) Any notice required by this section shall be served either by personal delivery to the affected franchisee or to some person of suitable age of discretion at the place of business of the franchisee; or, if no person can be found at any such place of business, then by leaving such notice of hearing in a conspicuous place on the business premises and mailing a copy thereof to the franchisee at the address set forth in the franchise application or to any other address known to the Board to be more probable to provide actual notice of the franchisee.

SECTION 07.01.390

DISPOSAL OF WASTE AT COUNTY  
FACILITIES

- (1) The County may issue a franchise, pursuant to the terms of this Division and this section for the

- operation of County disposal sites. The Board may operate disposal sites and disposal site services.
- (2) In addition to the rules of the Environmental Quality Commission (EQC) and the terms of this Division, the Board may adopt regulations relating to waste and solid waste disposal at County sites including regulations relating to the disposal of certain types of solid waste, commercial solid waste equipment standards, private solid waste equipment standards and fees for type and quantity of waste and solid waste deposited. If necessary to meet an emergency, the regulations will become effective upon their adoption at a Board meeting called for such purpose provided that all members of the Board present concur in the declaration of the emergency. Otherwise, such regulations shall be considered by the Board at a meeting, and notice of consideration and possible adoption of the regulations shall be given by mail to all franchisees affected by the proposed regulations at least twenty (20) days prior to the time the regulations are to be considered. Additionally, the topic of the proposed regulations or a copy of the regulations, if prepared, will be posted on the bulletin board at the Coos County Courthouse in Coquille and the Coos County Annex in North Bend not less than ten (10) days prior to the meeting to consider the regulations. Except in cases of emergency, any regulations so adopted shall be effective not less than ten (10) days after their adoption, and the resolution or order adopting the regulations shall state the effective date. A copy of the regulations shall be posted at any affected disposal site not less than five (5) judicial days after adoption. Removal of the regulations by vandalism or other cause shall not delay or invalidate the regulations.
- (3) The operation by the County of a disposal site or service shall conform to the rules of the Environmental Quality Commission (EQC) and such orders or regulations as may be made by the Board that specifically relate to the County operated services and sites.

SECTION 07.01.400

PROHIBITION - COUNTY DISPOSAL SITES

- (1) Unless changed or modified by action of the Board pursuant to the procedures established in Section 07.01.070 or by ordinance amendment, it shall be unlawful to deposit the following at any County disposal site:
- (a) Explosives or explosive devices;
  - (b) Human waste, except disposable diapers, and including septic tank contents, travel

- vehicle holding tanks and any container containing such waste;
- (c) Animal manure;
  - (d) Burning materials including burning barrels that have not been extinguished;
  - (e) Any waste declared "hazardous waste" by the Environmental Quality Commission (EQC) except that such waste may be deposited at disposal sites designated by the Board to receive such waste pursuant to the regulations and rules of the Environmental Quality Commission (EQC) and after written permission for such dumping is given by the Board of Commissioners or its designee;
  - (f) Any waste or solid waste prohibited by rule or permit of the Environmental Quality Commission (EQC) or any other federal, state or local agency having the power to issue such rules or regulations, or any waste or solid waste prohibited by regulations of the Board;
  - (g) Tree trunks and stumps;
  - (h) Dead animals, except those delivered for disposal by the Coos County Animal Shelter;
  - (i) Any industrial waste prohibited by regulations adopted by the Board: or
  - (j) Fish waste or waste materials from fish processing.
- (2) All persons utilizing a County disposal site for the disposal of solid waste shall separate and distribute the solid waste within the County disposal site as directed by the County attendant at the site.
  - (3) No person shall place any abandoned or wrecked automobile or any part thereof at any county disposal site except in areas and in a manner designated by the county for that purpose.
  - (4) No person shall dismantle at a county disposal site any wrecked or abandoned automobile or any part thereof except that the wheels of such vehicles may be removed following placement of the vehicle in the designated area, except the county may by contract authorize the dismantling of automobiles at county disposal sites.

SECTION 07.01.410

INCONSISTENT ORDINANCES OR EXERCISE  
OF LEGISLATIVE POWER BY OTHER  
PUBLIC AGENCIES

The franchisee shall agree, and it is a condition of each franchise, that Coos County is in no way responsible for the legislative or ordinance making power of other public agencies which may regulate, terminate or in any way prohibit

the franchise and that Coos County shall not be liable by an act condemning or taking property by any governmental body other than Coos County, or any interference with the franchise by any public agency other than Coos County.

SECTION 07.01.420

CONFORMITY WITH THE LAW

This Division shall in no way be a substitute for, nor eliminate in any way, the necessity for conformance with any and all laws or rules of the State of Oregon or its agencies, or the federal government or any of its agencies, nor any ordinances or rules or regulations of Coos County.

SECTION 07.01.430

ABATEMENT

- (1) (a) The accumulation, storage, collection, transportation or disposal of solid wastes or wastes by any person in violation of this Division or regulations promulgated hereunder is a nuisance and the Board through the County Counsel or District 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 storage, accumulation, collection, transportation or disposal.
- (b) The provisions of this section are in addition to and not in lieu of any criminal prosecution or penalties as provided by this Division and state law.
- (2) To determine whether there is reasonable cause to believe that a public nuisance exists on private property outside the limits of any city, the Board, or whoever it designates, may conduct an investigation for that purpose. In conducting such an investigation, the Board, or whoever it designates, may administer oaths, subpoena the production of relevant documents, and take the testimony of any person.
- (3) Whenever it appears there is reasonable cause to believe a public nuisance exists, the Board may order that a notice be issued and served upon the owner, tenant, occupant or person in possession of the premises where the nuisance is alleged or claimed to exist, requiring such person to appear before the Board at the time and place stated in the notice to show cause why a nuisance should not be declared to be existing on the premises.
- (4) At the time and place described in said notice, the Board shall conduct a public hearing on the question of the existence of the alleged nuisance, and if the Board finds that a nuisance exists, it shall declare the existence of a nuisance by order entered in its journal, and may order a suit to be

brought in the name of the County to institute injunction, abatement or any other proceeding provided by law to prevent temporarily or permanently the existence of the nuisance.

SECTION 07.01.440

RESERVED

SECTION 07.01.450

RESTRAINING ORDERS

Except as otherwise specifically provided in this Division, and in addition to all other authority granted to and inherent in the Board, the Board is hereby authorized to make and issue temporary restraining orders enjoining the alleged violation of any of the terms of this Division or franchises or regulations issued pursuant thereto, which order shall be directed to the alleged violator to immediately cease and desist from any act or acts described in said order until the Board determines whether or not a violation has occurred. Before issuing a temporary restraining order, the Board must have reasonable grounds to believe that the violation has occurred. In no event shall the Board make or issue such an order without having first received a written complaint containing allegations of a violation of this Division. The complaint shall specify the alleged violation in short and concise language sufficient to appraise the alleged violator of the act or acts to be enjoined. The order shall direct the alleged violator to appear at a time and place stated in said order and show cause, if any there be, why the alleged violator should not be immediately enjoined from doing the act or acts specified in the order. If the Board determines that the alleged violator has committed a violation of this Division, the Board may make and enter an order permanently enjoining further violations.

DIVISION TWO - PROTECTED RESOURCE ACTIVITY

[Adopted as Division Two of Article Seven on  
April 21, 1993]

SECTION 07.02.010

SHORT TITLE

This Division shall be known as "Protected Resource Activity Ordinance" and shall be so cited and pled.

SECTION 07.02.020

PURPOSE

It is the purpose of this Division to protect resource based industries of this county in order to ensure continued prosperity, health and safety in the county. Continued urbanization gives rise to conflicts between resource activities and nonresource uses because resource activities often offend, annoy, interfere with or otherwise affect nonresource uses located on resource lands or near resource users. This county has concluded that persons who locate in a resource area, along a resource area access, or near an existing resource use must accept the conditions commonly associated with living in that particular setting. This Division is intended to protect, preserve and provide for the continuance of resource activities in the county. Sections 07.02.040 and 07.02.050 of this Division are intended to limit or restrict the availability of findings of nuisance and trespass, and complaint procedures, rights of action and claims for relief over which this county has jurisdiction where they would otherwise either have an adverse impact on resource activities which this county seeks to protect or they would limit full utilization of the resource base within the county.

SECTION 07.02.030

DEFINITIONS

- (1) "Facility" means any personal property or real property, including any appurtenances thereto and any fixtures thereon, associated with a given use or activity.
- (2) "Farming practice" means cultivating, growing, harvesting, processing, or selling plants or animals of any kind, which may be lawfully grown, possessed or sold including, but not limited to, fish, poultry, grapes, Christmas trees, livestock, cranberries, dairy products and nursery stock.
- (3) "Forest practice" has the meaning given the term in ORS 527.620.
- (4) "Nonresource use" means any facility, activity or land use that is not a resource activity including, but not limited to, any residential use or dwelling.

- (5) "Protected resource activity" means any current or future generally accepted aggregate mining, farming, ranching or forest practice or facility that is conducted in compliance with applicable county land use ordinances and:
  - (a) Is conducted in compliance with applicable federal or state rules and regulations; or
  - (b) Is reasonably expected to occur or exist in a truly rural setting and is important to past, present or future operation of an aggregate mining activity, farming practice or forest practice that is conducted to obtain financial benefit.
- (6) "Generally accepted" practices may need to be clarified. The Coos County Commissioners may, as it deems necessary, establish resource user peer review boards consisting of five (5) persons who regularly are involved in a resource use within the County, three of whom regularly are involved in the same type of resource use in question, to advise the County as to generally accepted practices or facilities with respect to that use.
- (7) The term "protected resource activity" does not include:
  - (a) The growing of infested, infected or diseased crops, poultry or livestock.
  - (b) The physical condition of facilities that endanger public health or safety.
  - (c) A trespass that involves an actual physical invasion of the property of another by a person or by the person's animals.
- (8) In order to be a "protected resource activity", an aggregate mining activity must be conducted pursuant to a program to implement Goal 5.

SECTION 07.02.040

PROTECTION OUTSIDE URBAN GROWTH  
BOUNDARY

- (1) No protected resource activity occurring outside an urban growth boundary shall be declared to be a public or private nuisance or trespass or give rise to any county complaint procedure, right of action or claim for relief in favor of or to protect the interests of nonresource uses or any persons or property associated therewith.
- (2) This section applies regardless of the location of the nonresource use.
- (3) This section applies regardless of whether the nonresource use existed prior to the occurrence of the protected resource activity.
- (4) This section applies regardless of whether the protected resource activity or the nonresource use has undergone any change or interruption.

SECTION 07.02.050

PROTECTION INSIDE URBAN GROWTH  
BOUNDARY

- (1) No protected resource activity occurring inside an urban growth boundary shall be declared or held to be a public or private nuisance or trespass or give rise to any county complaint procedure, right of action or claim for relief in favor of or to protect the interests of nonresource uses or any persons or property associated therewith.
- (2) This section applies regardless of the location of the nonresource use.
- (3) This section applies only where the protected resource activity in question predated the conflicting nonresource use.
- (4) This section applies only where the protected resource activity in question has not significantly increased in size or intensity from the effective date of this Division or the date on which the applicable urban growth boundary is changed to include the subject protected resource activity within its limits, whichever is later.

SECTION 07.02.060

CHANGE IN URBAN GROWTH BOUNDARY

If an urban growth boundary is changed in such a way as to place the protected resource activity either inside or outside its limits, then Section 07.02.040 of this Division applies to any conflict between the protected resource activity and nonresource uses.

SECTION 07.02.070

LAND USE DECISIONS

The fact that this County's comprehensive plan, zoning ordinances or land use decisions allow the siting, development or support of any particular use does not in any way affect the provisions or the protection afforded a given protected resource activity under this Division.

DIVISION THREE - JEFFERSON BEHAVIORAL HEALTH  
[Adopted as Division Three of Article VII  
on May 28, 1997]

SECTION 07.03.010                      RATIFICATION OF FORMATION

The Coos County Board of Commissioners hereby ratifies the formation of an intergovernmental entity pursuant to the terms of ORS Chapter 190. The newly formed entity is to be called Jefferson Behavioral Health. It is the intention of the Coos County Board of Commissioners to enter into an intergovernmental agreement with Curry, Douglas, Jackson, Josephine and Klamath Counties which will provide for the formation of the Jefferson Behavioral Health and set out the duties, powers, and functions of the entity.

SECTION 07.03.020                      EFFECTIVE DATE

The effective date of the intergovernmental agreement for formation of Jefferson Behavioral Health is June 15, 1997.

SECTION 07.03.030                      PUBLIC PURPOSE

The public purposes for which the intergovernmental entity is formed are as follows:

- (1) To create an intergovernmental entity that will administer and provide mental health services on behalf of the parties to the agreement.
- (2) To provide and promote accessibility to mental health benefits and continuity of care for all consumers through comprehensive community mental health programs.
- (3) To preserve the integrity of community mental health programs while obtaining the economic benefits of cooperation among counties, the Mental Health and Developmental Disabilities Services Division of the Oregon Department of Human Resources ("Division"), and the Office of Medical Assistance Programs of the Oregon Department of Human Resources ("OMAP").
- (4) To connect the Oregon Health Plan and community mental health programs in a manner that gives full force and effect to ORS 414.705 to 414.750 and ORS 430.610 to 430.685.
- (5) To administer regional Medicaid funds in ways that preserve and enhance local management and operation of community mental programs.
- (6) To coordinate and integrate mental health services with physical health care services in the Service Area which is defined as the geographical area of the participating counties.

- (7) To promote accountability, continuity, and efficiency in the use, allocation, and investment of public funds for mental health services.
- (8) To provide a regional management information system for planning and developing mental health services in the Service Area.
- (9) To promote the involvement of county commissioners, local mental health advisory committees, consumers, and advocates in development and delivery of mental health services.

SECTION 07.03.040

POWERS, DUTIES, AND FUNCTIONS

Jefferson Behavioral Health shall have as its function the duty and power to do the following things:

- (1) The provision and administration of mental health services together with ancillary services, including labor, goods personal services, and incidentals ("Services") within the Service Area. Each party to the intergovernmental agreement forming Jefferson Behavioral Health, reserves exclusive control over these Services provided by its community health program within its county boundary other than Oregon Health Plan Services. However, Jefferson Behavioral Health may provide such Services pursuant to an agreement with a particular party.
- (2) The power to enter into and administer the Oregon Health Plan Service Agreement, other contracts and subcontracts for Services, and employment contracts.
- (3) Performance of any functions and activities that any party to the intergovernmental agreement forming Jefferson Behavioral Health has the authority to perform with respect to the provision for Services.
- (4) Performance of all lawful acts that are necessary to fulfill the purposes set out above.

DIVISION FOUR - PUBLIC HEALTH INSPECTIONS; DELEGATION FROM  
THE STATE HEALTH DIVISION [Adopted as Division  
Four of Article VII on August 28, 1997]

SECTION 07.04.010                      RULES OF PROCEDURE

The Rules of Procedure provided in the Administrative Procedures Act, ORS Ch. 183, are hereby adopted and approved for use in all hearings pursuant to the following Delegations of Authority, Responsibilities and Functions by the State Health Division.

SECTION 07.04.020                      TOURIST FACILITIES

Coos County hereby adopts ORS Ch. 446, together with subsequent amendments, as it relates to the delegation of responsibilities of the Assistant Director for Health regarding Tourist Facilities, pursuant to ORS 446.425.

SECTION 07.04.030                      SWIMMING POOLS AND SPAS

Coos County hereby adopts ORS Ch. 448, together with subsequent amendments, as it relates to the delegation of responsibilities of the Assistant Director for Health regarding Swimming Facilities, pursuant to ORS 448.100 with the exception of plan review duties for swimming pools and spas.

SECTION 07.04.040                      FOOD SERVICE FACILITIES

Coos County hereby adopts ORS Ch. 624, together with subsequent amendments, as it relates to the delegation of responsibilities of the Assistant Director for Health regarding Restaurants and Bed & Breakfast Facilities, pursuant to ORS 624.510.

SECTION 07.04.050                      OREGON ADMINISTRATIVE RULES

Coos County hereby adopts OAR 333-12-050, 333-12-055, 333-12-060, 333-12-065, together with subsequent amendments, as it relates to the delegation of responsibilities of the Assistant Director for Health as described in this division.

SECTION 07.04.060                      EFFECTIVE DATE OF DELEGATION

The delegation of duties as described in this division shall be effective on the date as mutually agreed by the State and County or such other date as determined by the Coos County Board of Commissioners.

SECTION 07.04.070

ENFORCEMENT

Any state laws or administrative rules and any county ordinance or county rules relating to public health inspections and the delegation of authority to Coos County, including but not limited to this division and any rules adopted by the County pursuant to this division, shall be enforceable through the provisions of Article Eleven, Division One of the Coos County Code and/or by any applicable enforcement provisions provided by state law or administrative rule.

DIVISION FIVE - ABATEMENT OF DANGEROUS BUILDINGS  
[Adopted as Division Five of Article  
Seven on July 26, 2004]

SECTION 07.05.010                      PURPOSE

The purpose of this Division is to provide for the abatement of dangerous buildings, as defined herein, and will herein be referred to as "this Division".

SECTION 07.05.020                      FINDINGS

The Board of Commissioners finds that:

- (1) This Division will provide a just, equitable and practicable method whereby buildings or structures, as defined herein, endanger the life, limb, health, property, safety or welfare of the general public, or their occupants, may be required to be repaired, secured, vacated, or demolished.
- (2) The purpose of this Division is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited.
- (3) Coos County can only provide such assistance with such an ordinance in place.
- (4) This Division would promote the public health, safety and welfare in Coos County, and is a matter of local concern.
- (5) The provisions of this Division shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

SECTION 07.05.030                      AUTHORITY OF COUNTY

This Division is adopted under the authority granted to counties under ORS 203.035, which provides that a county may exercise authority within the county over matters of county concern to the fullest extent allowed by Constitutions and laws of the United States and this state, as fully as if each particular power comprised in that general authority were specifically listed in ORS 203.030 to 203.075.

SECTION 07.05.040                      DEFINITIONS

For the purpose of this Division, certain terms, phrases, words, and their derivatives shall be construed as specified in either this Section or as specified in the Building Code, or the Housing Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. *Webster's Third New International Dictionary of the English Language, unabridged*, shall be construed as providing ordinary acceptable meanings. Words used in the masculine gender

include the feminine.

- (1) "Authorized Representative" shall include health officer, fire marshal, any state building inspectors, the building official and their authorized inspection personnel.
- (2) "Building Official" means the person designated by the County Board of Commissioners under Coos County Code Section 11.01.100 to enforce this Division.
- (3) "Building Code" means the Building Code adopted by the State of Oregon under ORS Chapter 455.
- (4) "Dangerous Building" means a building or structure as defined in Section 07.05.060 of this Division. A building or structure used for or accessory to a protected resource activity is not a "dangerous building" for purposes of this Division.
- (5) "Housing Code" means the Housing Code adopted by the State of Oregon in ORS Chapter 455.
- (6) "Protected Resource Activity" means a generally accepted aggregate mining, farming, ranching or forest practice or facility that is conducted in compliance with applicable county land use ordinances and Division Two, Article Seven of the Coos County Code.

SECTION 07.05.050

APPLICATION

The building official is authorized to enforce the provisions of this Division. All buildings or structures, which are required to be repaired under the provisions of this Division shall be subject to the Oregon State Building Code under ORS Chapter 455. The building official shall have the power to render interpretations of this Division in order to clarify the application of its provisions. Such interpretations shall be in conformity with the intent and purpose of this Division. This Division shall not apply to a building or structure used for, or accessory to, a protected resource activity.

- (1) The building official or authorized representative may make such inspections and take such actions as may be required to enforce the provisions of this Division.
- (2) When it is necessary to make an inspection to enforce the provisions of this Division, or when the building official or the building official's authorized representative has reason to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this Division which makes the building or premises unsafe, dangerous or hazardous, the building official or representative may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Division, provided that if such building or premises is occupied that credentials be presented

to the occupant and entry requested. If such building or premises is unoccupied, the building official or representative shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official or representative shall have recourse to the remedies provided by Oregon Law to secure entry.

- (3) All buildings or portions thereof which are determined after inspection by the building official or authorized representative to be dangerous as defined in this Division are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in Section 07.05.090 of this Division, and through the provisions of Article Eleven, Division One of the Coos County Code.
- (4) It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure or cause or permit the same to be done in violation of this Division.
- (5) All buildings or structures within the scope of this Division and all construction or work for which a permit is required shall be subject to all inspections, rules and regulations of the State Building Code under ORS Chapter 455.
- (6) All enforcement and appeals shall be processed in the manner prescribed under this Division and through Article Eleven, Division One of the Coos County Code.

SECTION 07.05.060

DANGEROUS BUILDING OR STRUCTURE

A building or structure defined in this Division may be declared to be dangerous under the following conditions:

- (1) The building or structure, or any portion thereof, has been so damaged by fire as to become:
  - (a) An attractive nuisance to children;
  - (b) A harbor for vagrants, or criminals; or
  - (c) Is a place where a person or persons may resort thereto for the purpose of committing unlawful acts.
- (2) Whenever any portion of a building or structure remains on site after the demolition or destruction of the building or structure as to constitute such building or portion thereof an attractive nuisance to children or hazard to the public.

SECTION 07.05.070

ENFORCEMENT

A building declared to be dangerous constitutes a public nuisance subject to abatement standards and procedures under this Division, and is a violation of law enforceable under the provisions of Article Eleven, Division One of the Coos County Code.

SECTION 07.05.080

NOTICES AND ORDERS

The building official shall issue a notice and order to the record owner of the building. The notice shall be served personally or mailed by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as know to the building official, and posted on the property. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any enforcement proceedings taken under this Division.

Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. This declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official.

The notice and order shall contain:

- (1) The street address and a legal description sufficient for identification of the premises upon which the building is located.
- (2) A statement that the building official has found the building to be dangerous with a brief description of the condition found to render the building dangerous under the provisions of this Division.
- (3) A statement of the action required to be taken as determined by the building official.
- (4) A statement advising that if any required repair or demolition work (without removal also being required) is not completed within the time frame specified, the building official will seek enforcement as outlined in this Division and Article Eleven, Division One, of the Coos County Code.

SECTION 07.05.090

ABATEMENT

The following standards shall be followed by the building

official in ordering repair, removal, or demolition of a building or structure declared to be dangerous under this Division:

- (1) Any building declared a dangerous building under this Division shall be made to comply with one of the following:
  - (a) The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair; or
  - (b) The building shall be demolished at the option of the building owner; or
  - (c) If the building does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured and maintained against entry.
- (2) If the building or structure is in such condition as to make it immediately dangerous to the life limb, property or safety of the public, or its occupants, it shall be ordered to be vacated.

SECTION 07.05.100

NOTICE TO VACATE

Posting: Every notice to vacate shall in addition to being served notice under Section 07.05.080 of this Division shall be posted at or upon each exit of the building and shall be in substantially the following form:

**DO NOT ENTER      UNSAFE TO OCCUPY**

*It is a misdemeanor to occupy this building, or to remove or deface this notice.*

*Building Official of COOS COUNTY.*

*Compliance: Whenever such notice is posted no person shall remain in or enter any building, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal has been completed.*

DIVISION SIX - LICENSING, INSPECTION AND ENFORCEMENT OF  
TOURIST FACILITIES  
[Adopted as Division Six of Article Seven on  
January 9, 2007]

SECTION 07.06.010                      PURPOSE

The purpose of this division is to provide the regulatory framework for Coos County to implement the delegation of authority, responsibilities, and functions from the State of Oregon to Coos County for the licensing, inspection, and enforcement of tourist facilities within Coos County in accordance with OAR Ch. 333, Div. 12.

SECTION 07.06.020                      ENFORCEMENT

- (1) Unless otherwise stated, the authority of the County to enforce any provision under this division by citation for violation of County ordinance, shall be in addition to and not in lieu of, all other civil and criminal enforcement authority delegated to the County by law.
- (2) Pursuant to ORS 153.008(1)(c), the offense of any of the provisions of Section 07.06.040 shall constitute a Violation as set forth in Section 07.06.050, and shall be enforceable by citation in accordance with Coos County Code Article Eleven, Division One.

SECTION 07.06.030                      DEFINITIONS

- (1) As used in this division, unless the context requires otherwise, all terms shall have the meanings set forth in ORS 446.310, OAR 333-012-0050(2), OAR 333-029-0015, OAR 333-030-0015, and OAR 333-031-0002, and as subsequently amended.
- (2) "Administrator" means the Public Health Administrator for the Coos County Health Department, or that person's designee(s).
- (3) "Enforcement Officer" shall have the meaning set forth in ORS 153.005, and as subsequently amended.

SECTION 07.06.040                      CONDUCT RELATING TO TOURIST FACILITIES

- (1) Except as provided in ORS 446.325, no person shall establish, operate, manage or maintain a tourist facility within Coos County, without a license from the County.
- (2) No person shall construct, operate, use, manage, or maintain a tourist facility within Coos County in a manner that does not comply with the rules adopted by the Department of Human Services for the administration of ORS 446.310 to 446.350 and 446.990.

- (3) A person operating a tourist facility shall permit the Administrator and any Enforcement Officer access to all of the facility at any reasonable time for the purposes of conducting an inspection to determine whether the facility conforms with this Division, ORS 446.310 to 446.350, and the rules adopted pursuant thereto.
- (4) The owner or operator of a recreation park or organizational camp that does not provide for the safe disposal of sewage or other wastes shall post a notice in a conspicuous place stating that camping vehicles are permitted overnight only if the vehicle's waste holding tanks are used.
- (5) No person shall use kitchen or toilet facilities in a camping vehicle being operated on a highway or County Road, or parked overnight at a place where sanitary facilities are not provided unless the person makes provision whereby sewage and other waste materials can be held in watertight and sanitary containers of a type approved by the Department of Human Services.
- (6) No person shall empty a container described in subsection (5) of this Section except into a public sewerage system, or other conveyance approved by the Department of Human Services.
- (7) Except as specified under (4) of this Section, camping shall not be permitted at a tourist facility without toilet facilities approved by the Department of Human Services.
- (8) No person shall, when using a recreation park or organizational camp, create an unsanitary condition or deposit putrescible or nonputrescible waste any place other than in appropriate containers designated for such purposes.

SECTION 07.06.050

PENALTIES

- (1) Offense of the following Sections of this ordinance shall constitute a Class A Violation:
  - (a) Sections 07.06.040(6), (7), and (8).
  - (b) Section 07.06.040(2) as to compliance with any part of OARs 333-029-0075, 333-029-0076, 333-029-0080, 333-029-0095, 333-029-0100, 333-030-0080, 333-030-0090, 333-030-0100, 333-030-0105, 333-030-0120, 333-030-0125, 333-031-0004, 333-031-0005, 333-031-0006 and 333-031-0110, and as subsequently amended.
- (2) Offense of the following Sections of this ordinance shall constitute a Class B Violation:
  - (a) Sections 07.06.040(3) and (5).
  - (b) Section 07.06.040(2) as to compliance with any part of OARs 333-029-0025, 333-029-0030, 333-029-0050, 333-029-0060, 333-029-0065, 333-029-0105, 333-029-0110, 333-030-0040,

333-030-0045, 333-030-0055, 333-030-0065,  
333-030-0070, 333-030-0085, 333-030-0095,  
333-030-0110, 333-030-0115, 333-031-0007,  
333-031-0008, 333-031-0012, 333-031-0018,  
333-031-0059, and 333-031-0066, and as  
subsequently amended.

(3) Offense of the following Sections of this ordinance shall constitute a Class C Violation:

(a) Sections 07.06.040(1) and (4).

(b) Section 07.06.040(2) as to compliance with any part of OARs 333-029-0020, 333-029-0035, 333-029-0040, 333-029-0045, 333-029-0070, 333-029-0090, 333-030-0020, 333-030-0025, 333-030-0035, 333-030-0050, 333-030-0060, 333-030-0075, 333-031-0014, 333-031-0020, 333-031-0060, 333-031-0062, 333-031-0064 and 333-031-0068, and as subsequently amended.

**DIVISION SEVEN - IMPLEMENTATION OF CITY OF BANDON MUNICIPAL CODE SECTION 8.08.150 WITHIN THE CITY OF BANDON URBAN GROWTH BOUNDARY [Adopted as Division Seven of Article Seven on February 1, 2021]**

SECTION 07.07.010 PURPOSE

The purpose of this Division is to adopt Section 8.08.150 of the City of Bandon Municipal Code (BMC) within the City of Bandon's urban growth boundary (Bandon UGB), and delegate enforcement and administration authority to the City of Bandon. The City of Bandon and the County share an interest in the heightened enforcement of Bandon's noxious vegetation rules within the Bandon UGB.

SECTION 07.07.020 ADOPTION OF MC 8.08.150

County hereby adopts BMC 8.08.150, attached as Exhibit 1, as a material part of this Division, and applies its provisions to all areas within the Bandon UGB. A map of the current Bandon UGB is attached as Exhibit 2. Changes in the boundaries of the Bandon UGB shall not require modifications of this Division or Ordinance 20-10-008L. This Division shall apply at all times within the entirety of the Bandon UGB as configured at any given time.

SECTION 07.07.030 DELEGATION OF AUTHORITY

County transfers all authority needed to implement and enforce this Division to properties located within the Bandon UGB. The City of Bandon shall administer the enforcement of this Division within the Bandon UGB in the same manner as it does for properties located within the Bandon city limits. All terms contained in BMC 8.08.150, as attached, to the extent that they are ambiguous or require further definition, shall be interpreted by reference to the BMC.

SECTION 07.07.040. LIMITATION ON COUNTY RESPONSIBILITY

The County does not retain any obligation or responsibility of implementing or enforcing BMC 8.08.150 within Bandon's urban growth boundary.

Bandon Municipal Code 8.08.150

Prohibited Vegetation.

- A. The State of Oregon has declared (through ORS 569.350) noxious weeds to be a menace to public welfare. The State has determined that steps are necessary which lead to intensive control of noxious weeds. It is recognized that the responsibility for eradication and intensive control rests not only with the private landowner and operator, but also on the local, state, and federal governments. The city expects voluntary compliance by landowners in taking actions to comply with this code and state law. In support of compliance, the city will provide information to increase public awareness of the problem, both citywide and property specific, and will provide guidance to available technical assistance. "Prohibited Vegetation" shall mean any plant classified as a noxious weed pursuant to ORS 569.350.
- B. The Coos County Board of Commissioners, Order 08-05-048L formed, a Noxious Weed Control District to ORS 569.360 and the intent of this ordinance is to work in cooperation with the Noxious Weed Control District and other weed eradication programs to ensure the needs of the community are met. Coos County has titled the priority noxious weeds as Targeted ("T" designated weed) which provides a focus for prevention and control against such weeds. Specifically, "prohibited vegetation" shall include those plants identified as "T" designated weeds.
- C. It is the goal of the City of Bandon to intensely control noxious weeds within the city limits and other areas under city jurisdiction. The focus of this effort will be on weeds identified on the Coos County Noxious Weed "T" List. This list names several invasive species targeted for prevention and control within Coos County including Gorse, Knotweed, English Ivy and others. Of this "T" List, the highest priority for compliance & enforcement will be given to Gorse (*Ulex europaeus*), which poses the greatest threat to human health & safety, is a growing negative impact to the area economy and has been a significant fuel source in historic catastrophic fires.
- D. Gorse occupies large portions of the city and surrounding area and contains highly volatile oils which make it an extreme fire danger. It is a highly invasive plant with a prolific seed bank that remains viable in the soil for decades. Management and control of Gorse requires intensive and on- going measures to:
  - 1. Remove existing plants / colonies,
  - 2. Prevent the emergence of re-growth and new seedlings from flowering, and
  - 3. Prevent further seed spread.
- E. Prohibited vegetation must be removed in all areas.
- F. Compliance with this code on prohibited vegetation is expected to occur primarily through voluntary compliance. The City will utilize the enforcement power granted in the Bandon Municipal Code in Chapter 8.12 to obtain compliance when the prohibited vegetation presents a high risk of fire or of spreading to adjacent public or private properties. Such enforcement action will include citation to Municipal Court seeking the imposition of fines.

# EXHIBIT "2"

