

Title 8

HEALTH AND SAFETY

Chapters:

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Chapter 8.04

NUISANCE ABATEMENT

Sections:

- 8.04.010** **Definitions.**
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- 8.04.050** **Abatement of nuisances.**

8.04.010 **Definitions.**

“Abandoned vehicle” means any vehicle which reasonably appears to be inoperable, wrecked, discarded abandoned or totally or partially dismantled.

“Attractive nuisance” includes any attractions that may prove detrimental to children whether in a building or not. This includes abandoned well shafts, buildings, excavations, refrigerators and motor vehicles; and includes structurally unsound fences, buildings or other structures.

“Code compliance specialist” means a County employee designated by the County Manager to seek compliance with and enforce any County ordinances.

“Board” means the Board of County Commissioners for Clatsop County.

“Dangerous” or “unsound building” includes any building or structure that is structurally unsafe whether by inadequate design, by deterioration or by damage, any building or structure not provided with adequate ingress or any building or structure which constitutes a fire hazard or that is otherwise dangerous to human health or safety.

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

“Enforcement proceedings” include the notice of hearing provisions of Chapter 1.14 and any order to the owner or occupant of the property to abate the nuisance. If the owner or occupant of the property fails to abate the nuisance as ordered, enforcement proceedings may also include the code compliance specialist causing County or employees to remove the nuisance.

“Hazardous wastes” does not include radioactive material or the radioactively contaminated containers and receptacles used in the transportation, storage, use or application thereof. Hazardous waste does include all of the following, which are not declassified by the Environmental Quality Commission:

1. Discarded, useless or unwanted materials or residues resulting from any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling or mitigating of insects, fungi, weeds, rodents or predatory animals, including, but not limited to, defoliants, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides as defined by ORS 634.211.
2. Residues resulting from any process of industry, manufacturing, trade or business or government or from the development or recovery of any natural resources, if such residues are classified as hazardous by order of the Commission, after notice and public hearing. For purposes of such

classification, the Commission must find that such residue, because of its quantity, concentration, or physical, chemical or infectious characteristics may:

- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
3. Discarded, useless or unwanted containers and receptacles used in the transportation, storage, use or application of the substances described in paragraphs 1 and 2 of this definition.

“Inoperable vehicle” means a vehicle which has broken or missing windows, windshield, wheels or tires, lacks an engine or has an inoperable engine or lacks a transmission or has an inoperable transmission

For the purpose of this paragraph, a showing that the vehicle in question is unlicensed and, if operated on a public highway of this State, would be in violation of three or more of the provisions of ORS Chapters 815 and 816, constitutes a rebuttable presumption that the vehicle is inoperable.

“Noxious vegetation” includes poison oak, poison ivy, vegetation that extends into a public thoroughfare, vegetation that creates a fire hazard, noxious weeds identified by the Oregon Department of Agriculture Noxious Weed Control Program.

“Person” means individuals, the state or a public or private corporation, local government unit, public agency, partnership, association, firm, trust, estate or any legal entity.

“Public nuisance” means, for the purposes of this chapter, a public nuisance includes, without limitation, the disposal of waste or solid waste, a dangerous or unsound building, an attractive nuisance, noxious vegetation, or the violation of any County act, ordinance, memorandum of understanding, or intergovernmental agreement not exclusively enforced elsewhere in the Clatsop County Code.

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

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

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

“Solid waste” includes all putrescible and nonputrescible wastes, including, but not limited to, garbage, rubbish, refuse, ashes, waste paper and cardboard; sewer sludge; commercial, industrial, demolition and construction wastes; discarded and abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes, dead animals and other wastes; but the term does not include:

1. Hazardous wastes;
2. 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.

“Waste” means useless or discarded materials. (Ord. 2022-04 § 1; Ord. 13-04 § 3; Ord. 97-3; Ord. 83-02 § 3)

8.04.020 Administration.

The code compliance specialist, under the supervision of the Community Development Director shall be responsible for the enforcement of this chapter. In order to carry out the duties imposed by this chapter, the code compliance specialist shall enter or authorize personnel to enter on the premises of any person regulated by this chapter at reasonable times and in a reasonable manner to determine compliance with this chapter and regulations promulgated pursuant thereto. (Ord. 2022-04 § 1; Ord. 83-02 § 3)

8.04.030 Persons and agencies exempted.

This chapter shall not apply to:

- A. Areas lying within the limits of any incorporated municipality or within an urban growth boundary of a municipality that has assumed responsibility for enforcement of code violations.
- B. Disposal sites operated in compliance with regulations promulgated by the Oregon Environmental Quality Commission or other ordinances or regulations of Clatsop County.
- C. Agricultural operations and growing or harvesting of crops and the raising of fowls or animals. (Ord. 2022-04 § 1; Ord. 83-02 § 3)

8.04.040 Public nuisance prohibited.

No property owner or occupant shall create a nuisance or allow a public nuisance to exist. (Ord. 2022-04 § 1; Ord. 83-02 § 3)

8.04.050 Abatement of nuisances.

- A. The code compliance specialist may, and upon the bona fide written and signed complaint of any person, shall investigate to determine whether a violation of Section 8.04.040 exists. The code compliance specialist may request the assistance of the Clatsop County Sheriff for the purpose of conducting any investigation by the code compliance specialist.
- B. After investigation, if the code compliance specialist finds reasonable cause to believe a public nuisance exists, enforcement proceedings may be initiated. The code compliance specialist shall not cause a nuisance abatement to be performed by the County without first giving written notice to the responsible person and to the County Commission.
- C. The notice, hearing and appeal provisions of Chapters 1.12 and 1.14 shall apply to enforcement proceedings under this chapter.
- D. When a nuisance is removed or abated by the County, or its agents, neither the County nor its agents shall be liable for any trespass or conversion as to any real or personal property. The cost of abatement performed by the County or its agents shall be collected from any property owner or occupant who has failed to comply with the notice of violation and also may be asserted as a lien against the property. (Ord. 2022-04 § 1; Ord. 83-02 § 3)

Chapter 8.08

NUCLEAR WEAPONS FREE ZONE

Sections:

- 8.08.010 Prohibitions and penalties.**
- 8.08.020 Exceptions.**

8.08.010 Prohibitions and penalties.

- A. It shall be unlawful in Clatsop County, Oregon to research, develop, test, evaluate, product, maintain, store, and/or transport nuclear weaponry or armaments, or any component parts integrally associated therewith, including, but not limited to, delivery, guidance, and/or triggering mechanisms, nor shall such items be situated, for any duration of time, within the County limits.
- B. This chapter shall not be construed to prohibit the use of radioactive materials in existing or future medical, scientific, or industrial non-weapons related research or application.
- C. As an alternative, or in addition to other remedies that are legally available for enforcing this chapter, the County may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the violation. (Ord. 96-15; Ord. 85-05 § 3)

8.08.020 Exceptions.

- A. The provisions of this chapter shall not apply to research, development, testing, evaluation, production, maintenance, storage and/or transportation of nuclear weaponry or armaments, or any component parts integrally associated therewith by any department or agency of the U.S. Government and/or by any private individual or entity on contract with the U.S. Government to provide such a service for the U.S. Government.
- B. The provisions of this chapter do not apply to private or foreign vessels operating on the Columbia River. (Ord. 90-04 § 3; Ord. 85-05 § 3)

Chapter 8.12

NOISE CONTROL STANDARDS

Sections:

- 8.12.010 Public disturbance.**
- 8.12.020 Public disturbance between the hours of 10:00 p.m. and 7:00 a.m.**
- 8.12.030 Penalties.**
- 8.12.040 Enforcement.**

8.12.010 Public disturbance.

- A A person commits the offense of causing a public disturbance if he or she discharges a firearm, explosive or explosive device of any kind within 1,000 feet of any dwelling not owned or occupied by that person, and causes annoyance and/or alarm to the complainant.
- B. Exceptions:
 1. A person discharging a firearm in the lawful defense of person or property.
 2. A person discharging a firearm in the course of lawful hunting.
 3. A landowner and guests of the landowner discharging a firearm, when the discharge will not endanger adjacent persons or property.
 4. A person discharging a firearm on a public or private shooting range, shooting gallery or other area designed and built for the purpose of target shooting.
 5. A person discharging a firearm in the course of target shooting on public land that is not inside an urban growth boundary if the discharge will not endanger persons or property.
 6. Persons exempted by state or federal law. (Ord. 2022-04 § 1; Ord. 01-11)

8.12.020 Public disturbance between the hours of 10:00 p.m. and 7:00 a.m.

- A. A person commits the offense of causing a public disturbance if he or she disturbs the peace and tranquility of any neighborhood or person between the hours of 10:00 p.m. and 7:00 a.m. by loud and/or boisterous means, or permits a dog to habitually bark, causing annoyance to the complainant.
- B. Exceptions:
 1. This section does not apply to a business operated in zone AF, EFU, or F80 if the noise is reasonably necessary and in furtherance of that business.
 2. Farm animals.
 3. A peace officer, firefighter, or other emergency personnel and vehicles engaged in the performance of his or her duties.
 4. Conditions granted by the Board of Commissioners of Clatsop County in accordance with any permit or conditional use permits.
 5. Persons exempted by state or federal law.

8.12.030

- C. Nothing herein shall prevent a police officer from acting as the complainant if the violation was observed by the police officer and the noise is likely to cause public annoyance or alarm. (Ord. 2022-04 § 1; Ord. 01-11)

8.12.030 Penalties.

- A. Violations of this chapter are enforceable under Chapter 1.11 of the code.
- B. In addition to the penalties prescribed in this section, the sound producing device may be seized and upon the order of the court destroyed or sold with the proceeds of the sale deposited in the Clatsop County general fund. (Ord. 2022-04 § 1; Ord. 01-11)

8.12.040 Enforcement.

It shall be the responsibility of the Clatsop County Sheriff to enforce Chapter 8.12 of this code. (Ord. 22-04 § 1)

Chapter 8.16

TOBACCO AND SMOKING FREE CAMPUS

Sections:

- 8.16.010** **Definitions.**
- 8.16.020** **Prohibitions.**
- 8.16.030** **Penalties.**

8.16.010 **Definitions.**

“County Campus” means all land and buildings at the County Service Building, 800 and 820 Exchange Street, Astoria, Oregon; the Boynton Building, 857 Commercial Street, Astoria, Oregon; the Public Works Building and Shop, 1100 and 1196 Olney Avenue, Astoria, Oregon; the Clatsop County Courthouse, 749 Commercial Street, Astoria, Oregon; the Clatsop County Sheriff’s Office and Jail, 355 7th Street, Astoria, Oregon; Community Corrections at 1190 SE 19th, Warrenton, Oregon; and the Animal Shelter at 1315 SE 19th, Warrenton, Oregon. The legal descriptions of the real property encompassing the County Campus are as follows:

1. Boyington Building. Lots 3 and 4, Block 27, McClures Astoria, excepting therefrom the north five feet of said Lots 3 and 4 and the east five feet of said Lot 4 for street purposes, in the City of Astoria, Clatsop County, Oregon.
2. 800 and 820 Exchange Street. Lots 1 through 8, Block 42, McClures Astoria, excepting therefrom the north five feet, the south five feet and the east five feet of said Block 42 for road purposes, in the City of Astoria, Clatsop County, Oregon.
3. Public Works Building and Shop. A parcel of land in Section 17, Township 8 North, Range 9 West, Willamette Meridian, County of Clatsop, Oregon, described as follows: Block 30 Olney’s Astoria including tideland frontage lying north of Hwy 202.

A parcel of land lying in Block 29, Olney’s Addition to Astoria and being a portion of the following described property:

That tract of land which was conveyed by that certain deed to Clatsop County recorded in Book 132, Page 65, Deed Records, Clatsop County; the said parcel being described as follows:

Beginning at the southeast corner of said Block 29; thence north 1°22’ east along the east line of said Block a distance of 252.0 feet; thence north 88°38’ west parallel to the south line of said Block a distance of 220.0 feet; thence south 1°22’ west parallel to the east line of said Block a distance of 252.0 feet; thence south 88°38’ east along said south line a distance of 220 feet to the point of beginning.

4. Clatsop County Courthouse. Lots 1 through 8, excepting the south six feet of Lot 7, Block 28 McClure’s Astoria, in the City of Astoria, County of Clatsop, State of Oregon.
5. Clatsop County Jail. Lots 5, 6, 7 and 8, Block 29 McClure’s Astoria, in the City of Astoria, County of Clatsop, State of Oregon.
6. Transition Center. That portion of Parcel 3, Partition Plat 2006-033 Clatsop County, State of Oregon, lying south of the most southern part of an easement recorded in Clatsop County Deed Records Instrument No. 200401949, in the City of Warrenton, County of Clatsop, State of Oregon.

8.16.020

7. Clatsop County Animal Shelter. Parcel 2, Partition Plat No. 1999-006, County of Clatsop, State of Oregon.

“Smoking instrument” means any cigar, cigarette, pipe or other smoking equipment.

“Tobacco product” means cigarettes, cigars, pipes and other smoking products, dip, chew, snuff, snus and any other smokeless tobacco product, and nicotine delivery devices such as electronic cigarettes, excluding FDA-approved nicotine replacement therapy products for the purpose of tobacco cessation. (Ord. 2013-02 § 7; Ord. 2012-07 § 7)

8.16.020 Prohibitions.

- A. It is unlawful to use tobacco products in any manner on the County Campus.
- B. It is unlawful to smoke or carry any lighted smoking instrument on the County Campus. (Ord. 2013-02 § 7; Ord. 2012-07 § 7)

8.16.030 Penalties.

Violation of the provisions of this chapter shall be punishable upon conviction as a Class B violation. (Ord. 2013-02 § 7; Ord. 2012-07 § 7)

Chapter 8.20

OUTDOOR LIGHTING

Sections:

- 8.20.010** **Policy and purpose.**
- 8.20.020** **Definitions.**
- 8.20.030** **Applicability.**
- 8.20.040** **Outdoor lighting standards.**
- 8.20.050** **Prohibitions.**
- 8.20.060** **Exemptions.**
- 8.20.070** **Administration and enforcement.**

8.20.010 **Policy and purpose.**

The purpose of this chapter is to provide regulations for residential, commercial, and public area outdoor lighting that will:

- A. Allow outdoor lighting appropriate to the need;
- B. Prevent light from shining onto adjacent properties, rights-of-way, or the night sky;
- C. Encourage energy conservation without decreasing safety, utility, security, and productivity;
- D. Enhance the livability and nighttime enjoyment of property in Clatsop County by minimizing the negative impacts exterior lighting can have on surrounding persons, properties, rights-of-way, and the environment;
- E. Establish guidelines for the installation and use of outdoor lighting that is controlled in such a way that it illuminates only the subject property and avoids illumination of surrounding properties, rights-of-way, or the night sky;
- F. Further define lighting classified as a public nuisance. (Ord. 2020-02 § 1)

8.20.020 **Definitions.**

“Fully shielded” means a light fixture which has shielding applied in such a manner that all illumination emitted by the light fixture is projected below the horizontal plane, measured from the lowest point of the lowest light-emitting component.

“Glare” means light emitted from a light fixture which enters the eye directly or by reflection, causing visual discomfort and/or reduced visibility.

“Light fixture” means any electrical equipment which has been designed to provide illumination, including, but not limited to lighting used for safety, utility, security, productivity, or decorative purposes.

“Light trespass” means light emitted from a light fixture, which falls beyond the property on which it is installed.

“New light fixture” means a light fixture installed where there was previously no light fixture.

“Outdoor lighting” means any permanent or temporary light fixture installed outside the envelope of an enclosed structure.

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“Replacement light fixture” means a light fixture installed in place of an existing light fixture. This does not include replacement of light-emitting components such as lightbulbs, lamps, fluorescent tubes, LEDs, or similar components, within existing light fixtures.

“Shielding” means an opaque material applied to a light fixture which serves to direct or contain illumination.

“Sky glow” means the brightening of the night sky caused by light directed or reflected upwards.

“Temporary lighting” means light fixtures which are not permanently installed and which are used not more than 90 days in any calendar year.

“Unshielded” means a light fixture which has no shielding to direct or contain illumination.

“Water-dependent” means a use or use and activity which can only be carried out on, in or adjacent to water areas because the use requires access to the waterbody for water-borne transportation, recreation, energy production, or source of water.

“Water-related” means uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterways, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs. (Ord. 2020-02 § 1)

8.20.030 Applicability.

Except as exempted by Section 8.20.060, all outdoor lighting fixtures installed or replaced after the effective date of the ordinance codified in this chapter shall conform to its provisions. This chapter applies to any property lying within unincorporated Clatsop County, but does not apply within any Urban Growth Boundary. (Ord. 2020-02 § 1)

8.20.040 Outdoor lighting standards.

- A. All non-exempt light fixtures shall be fully shielded.
- B. All non-exempt light fixtures shall be installed in such a manner as to prevent light trespass. (Ord. 2020-02 § 1)

8.20.050 Prohibitions.

- A. Laser Source Light. The use of laser source light or any similar high intensity light when projected beyond property lines or into the sky is prohibited.
- B. Searchlights. The operation of searchlights for purposes other than public safety or emergencies is prohibited, unless exempted by this chapter.
- C. Flood lights, spot lights, or other fixtures situated in such a manner as to illuminate beach frontages or the ocean, except in the support of maritime industries, water-dependent or water-related uses, and search and rescue operations. (Ord. 2020-02 § 1)

8.20.060 Exemptions.

The following light fixtures are exempt from compliance with the provisions of this chapter. These exemptions shall not prevent later adoption of standards that may address the retrofitting or removal of certain light fixtures:

- A. Outdoor light fixtures lawfully installed prior to the effective date of this chapter are exempt from all such requirements except as follows:
 - 1. A light fixture directed onto a neighboring property or right-of-way such that the glare is declared a nuisance.
 - 2. A light fixture, or fixtures, located on property that is the subject of an application for a development permit.
- B. Motion detector lights which operate automatically for periods of less than five minutes.
- C. Low-intensity ornamental lighting such as pathway lights, post-cap lights, landscape lights, and café-style string lights.
- D. Any lighting used in support of search and rescue or other emergency response operations.
- E. Any lighting affixed to maritime vessels.
- F. Lighting necessary to support regularly-scheduled road work.
- G. Any lighting used in support of emergency repair, replacement, or protection of existing structures, utility facilities, or roadways, provided that any permanently installed light fixtures comply with the provisions of this chapter after the emergency has passed.
- H. Lighting necessary to support permitted water-dependent or water-related uses, quarry and mining activities, or permitted uses on land located in the Heavy Industrial Zone; however, all such lighting shall aspire to comply with the provisions of this chapter where practicable.
- I. Lighting associated with discrete farming practices as defined in ORS 30.930 and agricultural use as defined in OAR 603-095-0010; however, permanent light fixtures on buildings, structures or poles associated with farm practices and agricultural use shall aspire to comply with the provisions of this chapter where practicable. For the purposes of this exemption, “discrete farming practices” does not include farm stands or agri-tourism events or other commercial activities.
- J. Lighting associated with discrete forest practices as defined by ORS Chapter 527; however, permanent light fixtures on buildings, structures or poles associated with forest practices shall aspire to comply with the provisions of this chapter where practicable.
- K. Airport lighting as required by state and/or federal law. All other airport lighting shall comply with the provisions of this chapter.
- L. Communication facility and/or tower lighting as required by state and/or federal law. All other communication facility lighting shall comply with the provisions of this chapter.
- M. Correctional facility lighting as required by state and/or federal law. All other correctional facility lighting shall comply with the provisions of this chapter.
- N. The following types of temporary lighting, used not more than 90 days in any calendar year:
 - 1. Temporary lighting for holiday decoration purposes.

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2. Temporary lighting associated with carnivals, fairs, or other permitted special events; however, permanent light fixtures located at dedicated special event sites shall conform to the standards of this chapter.
 3. Temporary lighting associated with permitted film productions.
- O. Lighting for U.S. flags intended to be properly displayed at night.
 - P. Light fixtures used in support of private and public outdoor recreation facilities, outdoor performance areas, and other similar outdoor facilities, provided lighting is extinguished within one hour after the conclusion of the final event of the day.
 - Q. Lighting necessary to meet federal, state or local historic preservation standards when such lighting cannot both serve the public need and comply with the standards of this chapter.
 - R. Permitted exemptions to the requirements of this chapter for up to 30 days per calendar year.
 - S. Street and/or pedestrian lighting located within a right-of-way; however, all lighting shall aspire to comply with the provisions of this chapter where practicable.
 - T. Traffic control devices in compliance with the Manual on Uniform Traffic Control Devices.
 - U. Sign lighting, which is subject the standards found in Title 16, Land and Water Development and Use, Clatsop County Code of Regulations. (Ord. 2020-02 § 1)

8.20.070 Administration and enforcement.

- A. Administration. For all new and existing outdoor light fixtures on property that is the subject of an application for a development permit, an applicant shall demonstrate the standards of this chapter are met.
- B. Enforcement. This chapter may be enforced pursuant to Chapter 1.12, Code Compliance, of the Clatsop County Code of Regulations. Any non-exempt outdoor light fixture installed or replaced in violation of this chapter is a public nuisance and enforcement action may be taken pursuant to Chapter 1.12, Code Compliance, of the Clatsop County Code of Regulations.
- C. The remedies provided in this chapter are not exclusive and shall not prevent the County from exercising any other remedy available under the law. (Ord. 2020-02 § 1)

Chapter 8.24

SOLID WASTE CONTROL

Sections:

- 8.24.010 Policy.**
- 8.24.020 Definitions.**
- 8.24.030 Administration—Responsibility.**
- 8.24.040 Administration—Authority.**
- 8.24.050 Rules and regulations—Promulgation.**
- 8.24.055 Business recycling requirement.**
- 8.24.120 Franchise—Issuance.**
- 8.24.130 Exemptions.**
- 8.24.140 Compensation defined.**
- 8.24.150 Franchise—Application form.**
- 8.24.160 Franchise—Information required.**
- 8.24.170 Franchise—Requirements.**
- 8.24.180 Franchise—Application review.**
- 8.24.190 Franchise—Investigation.**
- 8.24.200 Franchise—Recommendation.**
- 8.24.210 Franchise—Final order.**
- 8.24.212 Franchise—Term.**
- 8.24.214 Franchise—Periodic review.**
- 8.24.270 Responsibility of franchise holder.**
- 8.24.280 Franchise—Transfer.**
- 8.24.290 Franchise suspension, modification or revocation—Notice.**
- 8.24.300 Franchise suspension, modification or revocation—Findings.**
- 8.24.310 Franchise suspension, modification or revocation—Compliance order.**
- 8.24.320 Rates—Determination.**
- 8.24.330 Rates—Consideration.**
- 8.24.340 Rates—Preferences prohibited.**
- 8.24.342 Responsibility for payment of charges.**
- 8.24.344 Recycling.**
- 8.24.350 Franchise fees—Amount.**
- 8.24.360 Franchise fees—Collection.**
- 8.24.370 Franchise fees—Records maintenance.**
- 8.24.380 Franchise fees—Receipts misrepresentation unlawful.**
- 8.24.400 Conformity with law.**
- 8.24.410 Review of board action.**

8.24.010 Policy.

To protect the health, safety and welfare of the people of the County, the Board has determined the necessity of providing a coordinated countywide program for the safe, economical and efficient collection, storage, transportation and disposal of wastes and solid wastes, and to ensure adequate standards of service for said

collection, storage, transportation and disposal of wastes and solid wastes, and this chapter shall be liberally construed for the accomplishment of these purposes. (Ord. 2021-06 § 6)

8.24.020 Definitions.

In addition to the definitions provided in ORS 459.005, and as used in this chapter, unless the context requires otherwise:

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

“Franchise” means a sanitary service franchise issued by the Board.

“Solid waste collection service” or “service” means service that provides for collection of solid waste or recyclables or both, as described in ORS 459 and 459A.

“Service area” means the unincorporated portion(s) of Clatsop County in which a hauler is permitted to operate. (Ord. 2021-06 § 6)

8.24.030 Administration—Responsibility.

The County Manager under the authority of the Board shall be responsible for the administration and enforcement of this chapter. The County Manager may delegate any or all of the duties. (Ord. 2021-06 § 6)

8.24.040 Administration—Authority.

The County Manager shall have authority to certify to all official acts, and require the attendance of witnesses at public hearings before the Board; produce relevant documents at public hearings; provide testimony, and enter or authorize personnel to enter upon the business premises of any person regulated by this chapter at reasonable times to determine compliance with this chapter and the rules and regulations promulgated by the Board. (Ord. 2021-06 § 6)

8.24.050 Rules and regulations—Promulgation.

The Board shall promulgate reasonable rules and regulations pertaining to the administration of this chapter and for the collection, storage, transportation and disposal of waste and solid waste, including, but not limited to, the following:

- A. Standards of service to be provided to the public;
- B. Collection, storage, transportation and disposal of wastes and solid wastes to prevent:
 - 1. Vector production and sustenance;
 - 2. Conditions for transmission of diseases to people or animal;
 - 3. Air pollution by dust, fumes, gas, smoke, odors and particulate matter or any combination thereof;
 - 4. Fire hazards;
 - 5. Hazards to service or disposal workers or to the public;
- C. Collection of waste and solid wastes to prevent vector nuisances and air and water pollution through frequency and regularity of collection and by proper design, construction, operation and maintenance of collection equipment;

- D. Storage of wastes and solid wastes at the point of origin to eliminate conditions conducive to the creation of vector nuisances and air and water pollution through proper container construction and design and through waste and solid waste handling practices, including, but not limited to, container maintenance, as defined in the County's Solid Waste and Recycling Program administrative rules;
- E. Construction, loading and operation of collection vehicles used in performing service that is consistent with industry standards and for the purposes of preventing the contents thereof from dropping, sifting, leaking or escaping onto public roads and highways;
- F. Disposition at disposal sites, to the extent that no other regulatory or governmental body has jurisdiction over such matters and provided that they do not conflict with any other rules or regulations. (Ord. 2021-06 § 6)

8.24.055 Business recycling requirement.

All businesses within the County shall comply with waste prevention, recycling and composting requirements as set forth in the County's Solid Waste and Recycling Program administrative rules. For the purpose of this section, the term business shall mean any commercial or nonprofit entity, such as a store, office, manufacturing and industry facility, restaurant, warehouse, school, college, university, government, hospital and other similar entities doing business within the unincorporated county, but excludes businesses permitted in residences. (Ord. 2021-06 § 6)

8.24.120 Franchise—Issuance.

Except as otherwise provided in this chapter, it is unlawful for any person to collect, store, transport or dispose of any waste or solid waste, or to offer or advertise to provide services to collect, store, transport or dispose of any waste or solid waste, in the unincorporated areas of the County for compensation unless first obtaining a franchise issued by the Board; or after issuance of a franchise, for the applicable franchisee to collect, store, transport or dispose of waste or solid waste in a service area not covered by the applicable franchise, except as otherwise provided by this chapter. (Ord. 2021-06 § 6)

8.24.130 Exemptions.

Franchises shall not be required of:

- A. Cities that collect, store, transport or dispose of waste or solid waste;
- B. Federal or state agencies that collect, store, transport or dispose of waste or solid wastes or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for the federal or state agency;
- C. Other persons, practices, processes, businesses or wastes exempted by a written resolution of the Board after receipt of a recommendation of the County Manager on the basis of findings made after public hearing that the same is not necessary to the implementation of the County or a regional solid waste management plan;
- D. Persons transporting waste or solid waste collected outside the unincorporated areas of the County;
- E. Any nonprofit or charitable individual or organization engaged in collection of recyclable materials for profit from customers within an urban growth boundary. The County Manager may require proof of nonprofit or charitable status in determining whether this exemption applies;
- F. Persons collecting and transporting sewage sludge, septic tank and cesspool pumping or other sludge;

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- G. Persons collecting and transporting discarded or abandoned vehicles or parts thereof;
- H. Persons collecting or transporting dead animals;
- I. Persons collecting, storing, transporting, or disposing of waste or solid waste resulting from a disaster event pursuant to a contract with federal, state or local agencies issued during a state of emergency declared pursuant to Clatsop County Code Section 1.04.070. (Ord. 2021-06 § 6)

8.24.140 Compensation defined.

As used in Section 8.24.120, “compensation” includes the flow of consideration from the person owning or possessing the waste or solid waste to the person collecting, storing, transporting or disposing of the same or the flow of consideration from the person collecting, storing, transporting or disposing of waste or solid waste to the person owning or possessing the same. (Ord. 2021-06 § 6)

8.24.150 Franchise—Application form.

Applications for franchises shall be on forms provided by the County Manager. The applications shall be filed with the County to determine whether the applicant meets the requirements specified in Section 8.24.170. (Ord. 2021-06 § 6)

8.24.160 Franchise—Information required.

Applicants for franchises shall state:

- A. The types of service to be provided within a specified service area;
- B. The rates to be charged for this service;
- C. When the applicant already provides service to all or part of the area, a sworn and verified statement of all customers served within the area and a map showing service routes and boundaries. (Ord. 2021-06 § 6)

8.24.170 Franchise—Requirements.

- A. The applicant must show to the satisfaction of the Board the following:
 - 1. Has available equipment, facilities and personnel sufficient to meet the standards of equipment and service established by this chapter and ORS Chapter 459, and regulations promulgated there under;
 - 2. Is registered with the State of Oregon Corporation Division Business Registry; and
 - 3. Has comprehensive general liability insurance, including, but not limited to, auto liability and workers compensation insurance, in the amounts of, and as established in the Solid Waste and Recycling Administrative Rules.
- B. In addition to the foregoing requirements, the applicant must:
 - 1. Submit with an application for a franchise a sworn and verified statement of all disposal sites used, operated or otherwise patronized by the applicant, and a sworn declaration that applicant will dispose of all solid wastes at disposal sites approved by the Board and the Board shall approve all reasonably requested changes to the list of approved disposal sites that may be needed throughout the term of any franchise;

2. Submit with an application a corporate surety bond, in an amount established by the Board that is consistent with industry standards, guaranteeing full and faithful performance by the applicant of the duties and obligations of a franchise holder under the provisions of this chapter; and
 3. Defend and indemnify the County, its officers, commissioners, employees and agents and hold them harmless for any claim in any venue, including appeals, resulting from the actions or inactions of the franchise holder regulated by this chapter; provided however, that such obligation shall not apply to the extent such claim results from actions of the County.
- C. An applicant for a franchise who is not already serving the area defined in said franchise must show to the satisfaction of the Board that he meets all of the requirements of Sections 8.24.150 through 8.24.170, and that:
1. The defined service area has not been certified to another;
 2. The defined service area is not presently being served by the holder of a franchise; or
 3. The defined service area is not being adequately served, as determined by the Board after a public hearing and comment, by the holder of a franchise, and there is a substantial demand from customers within the area for a change of service to the area. (Ord. 2021-06 § 6)

8.24.180 Franchise-Application review.

Applications for franchises shall be reviewed by the County Manager which shall make such investigation as it deems necessary and appropriate. Written notice shall be given by the County to any person who holds a franchise which includes any part of the area contained in the application of another. (Ord. 2021-06 § 6)

8.24.190 Franchise—Investigation.

Upon the basis of the application, evidence submitted and results of any investigation by the County Manager, the County shall make a finding on the qualifications of the applicant under Section 8.24.170, and whether additional areas should be included or additional service and equipment be provided. (Ord. 2021-06 § 6)

8.24.200 Franchise—Recommendation.

On the basis of its findings, the County Manager shall recommend to the Board whether or not the application should be granted, denied, or modified, and the Board shall issue an order granting, denying or amending the application. If the order of the Board is adverse to either the applicant or the holder of a franchise, it shall not become effective until 30 days after the date of said order. The franchise holder or applicant may request a public hearing before the Board upon the Board's order by filing a written request for hearing with the Board within 30 days after the date of said order. Upon the filing of said request of hearing, the Board shall set a time and place for a public hearing upon its order, which hearing shall be not more than 30 days from the date of filing of said request for hearing. The franchise holder or applicant may submit evidence to the Board relevant to the Board's order. The Board may, following the hearing, affirm or amend its prior order. (Ord. 2021-06 § 6)

8.24.210 Franchise—Final order.

Subject to the provisions of Section 8.24.410, the determination of the Board after conclusion of said public hearing shall be final. If the Board makes a final order rejecting all or part of an application for a franchise,

the applicant may not submit another application for the same or a portion of the same service area for a period of six months unless the Board finds that the public interest requires reconsideration within a shorter period of time. (Ord. 2021-06 § 6)

8.24.212 Franchise—Term.

The franchises shall be for an initial term of five years. On each yearly anniversary of the effective date of the franchise, the franchise term shall be automatically extended for one additional year, unless either the County or the franchise holder provides written notice of its intent not to extend, at least 30 days prior to such yearly anniversary. (Ord. 2021-06 § 6)

8.24.214 Franchise—Periodic review.

A. Periodic Review Schedule.

1. The County Manager shall conduct the initial periodic review of all franchises in each group commencing on the dates set forth below, and shall conduct similar periodic reviews of all such franchises commencing March 15th on a schedule deemed appropriate by the County Manager.
2. The periodic reviews shall be completed not later than December 31st of the year in which the review is commenced.

B. Purpose of Periodic Review. Periodic review shall be conducted for the purpose of determining whether the franchises and the holders of such franchises are in compliance with the provisions of this chapter and all applicable rules, regulations and laws. Each franchise holder shall demonstrate compliance with all such requirements.

C. Information Submittals. The County Manager shall prepare a summary of information required to be submitted by each franchise holder, and may specify the forms for such submittals to assure that information necessary to determine compliance is available to the County Manager.

D. Effect of Noncompliance. If in the course of its review of franchises, the County Manager determine that the franchise or franchise holder being reviewed is not in compliance with the provisions of this chapter or applicable rules, regulations and laws then the County Manager shall advise the franchise holder in writing of such violation in the manner set forth in Section 8.24.290 and direct that the compliance be achieved within a date certain determined by the County Manager. If the franchise holder fails to achieve compliance within the date specified, the County Manager shall report to the Board with a recommendation on whether the franchise should be suspended, modified or revoked.

E. Suspension, Modification and Revocation. The County Manager and board may initiate proceedings for suspension, modification or revocation under Sections 8.24.290 through 8.24.310, inclusive, at any time, whether or not a periodic review is being conducted. (Ord. 2021-06 § 6)

8.24.270 Responsibility of franchise holder.

A. The holder of a franchise:

1. Shall provide required service and facilities consistent with the standards established by the County in the Solid Waste and Recycling Administrative Rules;
2. Shall not discontinue service to the service area or any substantial portion thereof without giving not less than 90 days' written notice of the proposed discontinuance of service to the County and to customers and receiving the approval of the County prior to discontinuing said service;

3. May contract with another person to provide service within the service area after giving 30 days' written notice to and obtaining the approval of the County. The County shall approve the contract unless it finds that the quality or extent of service would be jeopardized;
4. May refuse collection service to any customer as provided for within the County's Solid Waste and Recycling administrative rules, or for other reasons as may be established by the Board; provided, however, in no event shall the holder of any franchise terminate said service without first notifying the customer in writing of the holder's intention to terminate service not less than seven calendar days prior to the date of termination of service. (Ord. 2021-06 § 6)

8.24.280 Franchise—Transfer.

A franchise holder may transfer a franchise or a portion of the service area only after written notice to and approval by the Board.

- A. The Board shall approve the transfer if it finds that the transferee meets all applicable requirements of this chapter.
- B. The Board shall approve or disapprove any application for transfer of franchise within 60 days after receipt of notice by the Board unless the Board finds that there is a substantial question of public health or safety involved and requires additional time for investigation and decision. (Ord. 2021-06 § 6)

8.24.290 Franchise suspension, modification or revocation—Notice.

The County shall, upon reasonable cause, make investigations to determine if there is sufficient reason and cause to suspend, modify or revoke a franchise as provided in Section 8.24.300. If, in the opinion of the County, there is sufficient evidence to constitute a violation of this chapter or ORS Chapter 459 or the rules and regulations promulgated thereunder, the County shall notify the holder of the franchise in writing of the alleged violation and what steps must be taken to cure the violation. If the holder of the franchise is unable to or refuses to cure the violation and follow the requirements of the County set forth in said notice, the County may recommend to the Board that the service franchise be suspended, modified or revoked. (Ord. 2021-06 § 6)

8.24.300 Franchise suspension, modification or revocation—Findings.

The Board may suspend, modify or revoke a franchise upon finding that the holder thereof has:

- A. Willfully violated this chapter or ORS Chapter 459 or the rules and regulations promulgated thereunder;
- B. Materially misrepresented statements in the application for a franchise; or
- C. Willfully refused to provide adequate service in the defined service area after written notification and a reasonable opportunity to do so. (Ord. 2021-06 § 6)

8.24.310 Franchise suspension, modification or revocation—Compliance order.

In lieu of immediate suspension, modification, or revocation of a franchise, the Board may order compliance and make suspension, modification or revocation contingent upon compliance with the order within a time stated in said order. (Ord. 2021-06 § 6)

8.24.320 Rates—Determination.

The Board shall approve and establish existing rates filed by all applicants under Sections 8.24.150 and 8.24.160 who meet the requirements of Section 8.24.170, unless it finds that such rates are demonstrably unreasonable and are substantially higher than those charged generally in the county under similar service requirements and for the same or similar quality of service. In determining whether such rates are unreasonable under this section and Section 8.24.330, the Board shall consider the length of haul, type of waste or solid waste collected, stored, or transported, the number, type and location of customers served, or such other factors as may, in the opinion of the Board, justifiably affect the rates charged. (Ord. 2021-06 § 6)

8.24.330 Rates—Consideration.

Increases or decreases in the rates approved under Section 8.24.320 shall not be made by the Board unless the Board finds that the increase or decrease is based upon an increase or decrease in the cost of doing business or an increased cost of additional, better or more comprehensive service. In determination of a proposed rate change, the Board shall give due consideration to:

- A. The investment in facilities and equipment, the services of management, local wage scales, the concentration of customers in the area served, methods of collection and transportation, the length of haul to disposal facilities, and the cost of disposal, reasonable return of the owners of the business and the future service demands of the area which must be anticipated in equipment facilities and personnel;
- B. The Board may require an investigation of any proposed rate increase or decrease. For purposes of making its investigation, the County Manager is authorized to hold public hearings and to take and receive testimony relevant to the considerations to be made by the board in allowing or denying rate increases or decreases under this chapter. Upon completion of its investigation, the County Manager shall make report of the hearing and recommendation to the board regarding the proposed rate increases or decreases;
- C. In considering rate increases or decreases, the Board must find that the rates will be just, fair, and provide a reasonable and sufficient rate of return for the franchise holder 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. (Ord. 2021-06 § 6)

8.24.340 Rates—Preferences prohibited.

- A. No franchise holder subject to rate regulation under this chapter shall give any rate preference to any person, locality or type of waste or solid waste, collected, stored, transported or disposed.
- B. Nothing in this section is intended to prevent:
 1. The reasonable establishment of uniform classes of rates based upon length of haul, type of waste or solid waste collected, stored, transported or disposed of or the number, type and location of customers served, or upon other factors so long as such rates are reasonably based upon costs of the particular service and are approved by the Board in the same manner as other rates;
 2. Any person from volunteering service at reduced costs for a charitable, community, civic or benevolent purpose. (Ord. 2021-06 § 6)

8.24.342 Responsibility for payment of charges.

The provisions of solid waste collection service to residential tenants is declared to be a benefit and service to the owners of such property, as well as the tenants. Any person who receives service shall be responsible for payment for such service. The landlord of any premises shall be responsible for payment for service provided to that premises if the tenant fails to pay for the service. (Ord. 2021-06 § 6)

8.24.344 Recycling.

- A. All holders of franchises shall offer to provide on-route collection of source separated recyclable material from all customers consistent with the service standards established within the County's Solid Waste and Recycling Administrative Rules. This service shall include, but not be limited to, each of the materials required to be collected by Oregon Administrative Rules, together with any other materials which may be designated by the Department of Environmental Quality and as agreed on between the applicant and County to cover materials that provide for a maximum diversion from landfill and are recyclable based on available end-markets.
- B. Each holder of a franchise shall provide notices to its customers that comply with all applicable requirements of the County's Solid Waste and Recycling administrative rules as well as all applicable Oregon Administrative Rules. (Ord. 2021-06 § 6)

8.24.350 Franchise fees—Amount.

The Board shall collect, in the manner and at times hereinafter provided, from the holder of any franchise, an annual fee equal to five percent of the gross receipts from the area defined in said franchise. (Ord. 2021-06 § 6)

8.24.360 Franchise fees—Collection.

The annual fee shall be computed and collected at least on a quarterly basis, the quarterly periods to consist of the periods ending March 31st, June 30th, September 30th and December 31st. The fee shall be paid by the franchise holder not later than the last day of the month immediately following the end of the quarter. (Ord. 2021-06 § 6)

8.24.370 Franchise fees—Records maintenance.

Every franchise holder shall maintain complete and accurate records as defined within the County's Solid Waste and Recycling administrative rules disclosing the gross receipts for services rendered for compensation pursuant to this chapter. All applicable books and records shall be open at reasonable times and places for review by authorized personnel of the County. (Ord. 2021-06 § 6)

8.24.380 Franchise fees—Receipts misrepresentation unlawful.

Misrepresentation of gross receipts by an applicant or franchise holder as disclosed by review shall constitute cause for denial or revocation of franchise, pursuant to Sections 8.24.290 through 8.24.310. (Ord. 2021-06 § 6)

8.24.400 Conformity with law.

This chapter, all amendments made thereto, and all rules and regulations adopted by the Board pursuant thereto shall be in no way a substitute for, nor in any way eliminate the necessity of conforming with all

8.24.410

valid federal and state statutes or laws or any rules or regulations adopted pursuant thereto, nor any ordinance enacted by the County or rule or regulation adopted pursuant to such ordinance. The provisions of this shall be construed to be an addition to the requirements imposed by all such statutes, laws, ordinances, rules or regulations. (Ord. 2021-06 § 6)

8.24.410 Review of board action.

All decisions of the Board under this chapter shall be reviewable by the Circuit Court of the State of Oregon for the County under the provisions of ORS 34.010—34.100 which shall be the sole and exclusive remedy for reviewing any and all actions of the Board under this chapter. (Ord. 2021-06 § 6)