

BEFORE THE BOARD OF COMMISSIONERS
FOR THE COUNTY OF MULTNOMAH
ORDINANCE NO. 711

An ordinance relating to the regulation of solid waste haulers in portions of unincorporated Multnomah County in order to provide for the opportunity to recycle to be administered by the City of Portland, and declaring an emergency and repealing Ordinance No. 541.

Multnomah County ordains as follows:

SECTION I. FINDINGS.

- A. WHEREAS, the City and County entered into an intergovernmental agreement in 1986 whereby the County agreed to prepare a County ordinance extending the City's solid waste hauler regulations into a portion of unincorporated Multnomah County and the City has agreed to administer those regulations within the specified unincorporated area.
- B. WHEREAS, pursuant to the 1986 Intergovernmental Agreement, the County incorporated Portland Code Chapter 17.102 into the County Code by adopting Ordinance 541; and
- C. WHEREAS, the City recently amended Chapter 17.102 of its

code, which amendments became effective on February 3, 1992. The revised Chapter 17.102 is now inconsistent with the County solid waste regulations adopted by Ordinance 541; and

- D. WHEREAS, the public interest will be served by a uniform solid waste collection and recycling effort inside the Portland Urban Services Boundary.

SECTION II. REPEAL OF ORDINANCE NO. 541

Ordinance No. 541 is hereby repealed.

SECTION III. ADOPTION OF REGULATIONS.

Portland City Code, Chapter 17.102, a copy of which is attached hereto and incorporated herein by reference, is hereby adopted as an ordinance of Multnomah County, subject to the following modifications:

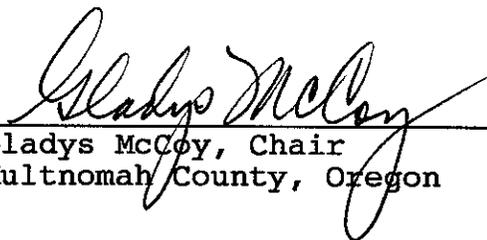
- A. References to "City" or "City of Portland" shall be construed as references to Multnomah County.
- B. The regulations adopted hereby shall apply only to solid waste and recycling collection within Portland's Urban Services Boundary in effect on the date this Ordinance is adopted.
- C. Pursuant to the terms of the intergovernmental agreement attached as Exhibit A, the City shall administer the regulations in the specified portion of unincorporated Multnomah County.

SECTION IV. EMERGENCY CLAUSE.

This Ordinance, being necessary for the health, safety, and general welfare of the people of Multnomah County, an emergency is declared to exist. Therefore, this Ordinance shall take effect immediately upon its adoption by the Board of County Commissioners of Multnomah County.

ADOPTED this 6th day of February, 1992, being the date of its first reading before the Board of County Commissioners of Multnomah County, Oregon.





Gladys McCoy, Chair
Multnomah County, Oregon

REVIEWED:

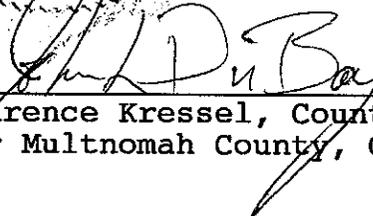

By _____
Laurence Kressel, County Counsel
For Multnomah County, Oregon

Exhibit A

Chapter 17.102

SOLID WASTE & RECYCLING COLLECTION

Sections:

- 17.102.010 Declaration of Policy.
- 17.102.020 Definitions.
- 17.102.030 Authority of Director to Adopt Rules.
- 17.102.040 Residential Collection Franchise Required.
- 17.102.050 Franchise Administration.
- 17.102.060 Franchise Size Limitation.
- 17.102.070 [Reserved]
- 17.102.080 Residential Recycling Service Delivery.
- 17.102.090 Residential Recycling Plans Required.
- 17.102.100 Recycling District Permit Required.
- 17.102.110 Residential Solid Waste and Recycling Rates and Charges.
- 17.102.120 [Reserved]
- 17.102.130 [Reserved]
- 17.102.140 [Reserved]
- 17.102.150 [Reserved]
- 17.102.160 Exceptions.
- 17.102.170 Tonnage Fees.
- 17.102.180 Recycling Bin Charges.
- 17.102.190 Fees Credited to Refuse Disposal Fund.
- 17.102.200 Fees Are A Debt.
- 17.102.210 [Reserved]
- 17.102.220 Franchise System Evaluation.
- 17.102.230 Right of Appeal.

17.102.010 Declaration of Policy. It is the policy of the City of Portland to reduce the amount of solid waste generated and disposed by undertaking aggressive source reduction and recycling activities. City policy shall promote the development of environmentally sound practices regarding the collection, processing and end use of solid waste, recyclable material and compostable material. In order to attain these goals and protect public health and the environment, the City shall regulate collection of solid waste, recyclable material and yard debris within the City's Urban Services Boundary. In carrying out this policy, the goals of this chapter are:

- (1) To reduce the amount of solid waste generated, as measured on a per capita basis, by ten percent before 1997.
- (2) To achieve a goal of a 60 percent recycling level from the solid waste stream by 1997.
- (3) To ensure the safe and sanitary collection, transportation and recovery of solid waste, recyclable and yard debris materials.
- (4) To provide Portland residents and businesses the opportunity to recycle more materials through convenient on-site, curbside and depot collection programs and through the addition of recyclable materials to the curbside collection program as appropriate.
- (5) To establish and enforce solid waste, recyclable material and yard debris collection standards to ensure uniform, cost effective and high quality service delivery to all residents.
- (6) To establish rates for residential waste collection which are fair to the public, encourage waste reduction, and promote safe, efficient collection.
- (7) To promote community awareness in order to achieve the highest participation possible in the solid waste and recycling collection system.
- (8) To enhance waste reduction and recycling in the multifamily, commercial, institutional and industrial sectors.
- (9) To undertake research, studies and demonstration projects on developing more efficient, economical and effective methods of waste reduction, recycling and waste collection.

17.102.020 Definitions. For purposes of Chapter 17.102, and rules adopted thereunder, the following terms shall have the following meanings:

- (1) "Administrative Rule" mean all rules promulgated under Section 17.102.030 of this Chapter.
- (2) "Approved Recycler" means a business entity that has received City approval of its recycling plan for its assigned territory. "Approved Recycler" includes any employees or other persons authorized to act on behalf of the Approved Recycler.
- (3) "Assessment" means a civil penalty assessed against a franchisee or permittee for an infraction.
- (4) "Assigned Territory" means an area within the Urban Services Boundary of the City of Portland in which only a person designated by the City may collect solid waste and recyclable material from residential customers.
- (5) "Bureau" means the Bureau of Environmental Services of the City of Portland.
- (6) "City" means the City of Portland and the area within the City Urban Service Boundary.
- (7) "Collect" (Collection) includes store, transport or dispose of.
- (8) "Commercial Collection" means the collection of solid waste and/or recyclable materials from:
 - (a) A non-residential source;
 - (b) A multifamily residence of five or more units; or
 - (c) The self hauling of solid waste from five or more residential units.
- (9) "Compensation" means and includes:
 - (a) Any type of consideration paid for service, including, without limitation, rent lease payments and any other direct or indirect provision of payment of money, goods, services or benefits by owners, tenants, lessees, occupants or similar persons;
 - (b) The exchange of services between persons; and

- (c) The flow of consideration from the person owning or possessing the solid waste or recyclable material to the person providing the service or from the person providing the service to the person owning or possessing the solid waste or recyclable material.
- (10) "Director" is the Director of the Bureau of Environmental Services of the City of Portland, Oregon, or his or her duly authorized representative or agent.
- (11) "Franchise" means a residential solid waste and recyclable material collection franchise awarded by Ordinance No. 164701, and as amended by subsequent ordinances.
- (12) "Franchisee" means a business that has been awarded a franchise by Ordinance No. 164701, and subsequent amending ordinances, within the Urban Services Boundary of the City of Portland, for the collection of residential solid waste and recyclable material, including yard debris. "Franchisee" includes any employees or other persons authorized to act on behalf of the Franchisee.
- (13) "Franchise Territory" means an area within the Urban Services Boundary of the City of Portland in which only a City designated hauler may collect residential solid waste and recyclable material, including yard debris, from residential customers.
- (14) "Hazardous Waste" as defined in ORS 466.005, means solid waste that may, by itself or in combination with other waste, be infectious, explosive, poisonous, caustic or toxic, or otherwise dangerous or injurious to human, animal or plant life.
- (15) "Independent Recycler" means a Franchisee having 3,000 or more residential customers in the City as of February 28, 1991.
- (16) "Infectious Waste" as defined in ORS 459, includes "Biological Wastes" "Cultures and Stocks", "Pathological waste", and "Sharps".
- (17) "Infraction" means a failure to comply with City code or rules promulgated thereunder and which may be appealed to the City of Portland Code Hearings Officer pursuant to City Code Chapter 22.10.
- (18) "Permittee" means any person granted a Commercial Collection permit under Section 17.102.120 of this Chapter.

- (19) "Person" means any individual, partnership, association, firm, trust, estate, a public or private corporation, a local government unit, a public agency, the state or any other legal entity.
- (20) "Recyclable Material" includes, but is not limited to, newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, container glass, aluminum, tin cans, plastic milk jugs, magazines, yard debris and other materials as may be designated by the City.
- (21) "Recycling" means the series of activities including collection, separation, and processing, by which products or other materials are recovered from or otherwise diverted from the solid waste stream (1) for use in the form of raw materials in the manufacture of new products other than fuel and (2) in the case of source separated wood waste which has no material use, for use as fuel. Recycling includes composting of source separated organics but not composting of mixed waste.
- (22) "Recycling District" means a business entity formed by franchisees for purposes of recycling collection under the Franchise Agreement, and having an approved plan as set forth in Section 17.102.090.
- (23) "Residence" means any dwelling unit in the franchise territory that is a four-plex or smaller where the principal use is residential, regardless of whether it has subscribed for waste collection, or has waste collection in individual cans, carts or containers. Residence does not include any multi-dwelling building or group of buildings that contain(s) five dwelling units or more, including condominiums, mobile home parks, houseboat moorages or any other property which is occupied by five or more dwellings and for which Solid Waste or recycling collection service is or may be arranged in common, such as by a single property owner, management entity or homeowners' association.
- (24) "Resident" means any person living in a "Residence".
- (25) "Residential" means of or pertaining to "Residence".
- (26) "Self Haul" means the collection and transportation of a resident's solid waste and/or recyclable material by that resident, not for compensation.
- (27) "Service" means the collection and transportation of solid waste and recyclable material by persons for compensation.

- (28) "Solid Waste" has the meaning given in ORS 459.005, including but not limited to garbage, rubbish, refuse, ashes, discarded home appliances, manure, vegetable or animal solid and semisolid wastes and other waste generated by Residential customers; but not including:
- (a) Sewage sludge, septic tank and cesspool pumpings or other sludge;
 - (b) Discarded or abandoned vehicles;
 - (c) Recyclable material or yard debris which is source separated and set out for recycling purposes; or,
 - (d) Waste that is designated by the Oregon State Department of Environmental Quality (DEQ) or Metro as requiring special handling, treatment, storage or disposal to avoid potential damage to the environment or to public health.
- (29) "Source separated" means that the person who last used recyclable material separated their recyclable material from solid waste and kept each material type segregated.

17.102.030 Authority of Director to Adopt Rules.

- (1) The Director is hereby authorized to adopt rules, procedures and forms to implement the provisions of this chapter.
- (2) Adoption of Rules.
 - (a) Any rule adopted pursuant to this section shall require a public review process. Not less than ten nor more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.

- (b) During the public review, a designee of the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendation of his or her designee, taking into consideration the comments received during the public review process and shall either adopt the proposal, modify or reject it. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director.
- (c) Notwithstanding paragraphs (2) and (3) of this section, an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days.

17.102.040 Residential Collection Franchise Required

- (1) No person may provide residential solid waste or recyclable material collection, including yard debris, within the Portland Urban Services Boundary without having obtained a franchise from the City, except as provided in 17.120.160 of this Chapter.
- (2) Having obtained a franchise for residential solid waste and recyclable material collection from the City, no person shall provide or offer to provide such collection in an area within the Portland Urban Services Boundary other than the assigned territory for which the franchise was issued.
- (3) No person shall accumulate, store collect, transport, dispose of or resource recover solid waste or recyclable material except in compliance with this chapter, other city ordinances, and Chapter 459, Oregon Revised Statutes, dealing with solid waste management and regulations and amendments promulgated under any of the foregoing.
- (4) Nothing in this section shall prohibit the City from withdrawing certain solid waste or recyclable material services by amendment to this section on the basis of finding that such change is appropriate.

17.102.050 Franchise Administration. Notwithstanding provisions of Title 3.114.020, the Bureau of Environmental Services shall be responsible for administration of all residential solid waste and recyclable material collection franchises.

17.102.060 Franchise Size Limit.

- (1) No franchisee shall service more than 50,000 residential customers.
- (2) No franchisee shall be a subsidiary corporation of another franchisee.

17.102.070 [Reserved]

17.102.080 Residential Recycling Service Delivery.

- (1) Residential recycling collection shall be performed by either an Independent Recycler or a Recycling District.

17.102.090 Residential Recycling Plans Required.

- (1) Independent Recyclers and Recycling Districts must receive City approval of Recycling Collection and Processing Plans prior to initiation of service.
- (2) Recycling Collection and Processing Plans shall be submitted on forms provided by the City and shall include, at a minimum, the following information:
 - (a) Number of residential households in service area;
 - (b) Description of recycling collection equipment;
 - (c) Address and City zoning classification of processing/storage sites;
 - (d) Description of processing and storage activities;
 - (e) List of markets where each recyclable material will be sold;
 - (f) List of the number of staff, their positions and FTE for each;
 - (g) Address and phone number of office;
 - (h) Cost of recycling collection and processing equipment, the financial institution used and type of financing obtained; and
 - (i) Other relevant information deemed necessary by the Bureau.

- (3) The Bureau shall review each submitted Recycling Collection and Processing Plan to determine if the plan sets out reasonable means and methods to deliver high quality recycling to City residents, and which are capable of meeting Administrative Rule standards for residential recycling service delivery. Independent Recyclers and Recycling Districts shall be notified in writing by the City as to the acceptability of their plans and any recommended modifications if approval is not given.
- (4) Failure to receive City approval of a plan shall result in denial of the City's permission to provide recycling collection service and the appointment of another firm by the City to provide recycling collection service.

17.102.100 Recycling District Permit Required.

- (1) Recycling Districts must receive a Recycling District Permit from the Bureau of Environmental Services prior to implementation of recycling collection service on behalf of their franchisee members.
- (2) Recycling District Permit application shall include, at a minimum, the following information:
 - (a) The names of franchisees participating in the Recycling District;
 - (b) Board of Directors membership (if applicable);
 - (c) Names of program manager and other paid or volunteer staff;
 - (d) Address and phone number of office; and
 - (e) Other relevant information deemed necessary by the Bureau of Environmental Services.
- (3) The permit shall be annual and shall expire on January 31 of each year. Failure to submit a satisfactorily completed permit application shall result in the revocation of the right to provide recycling collection service to Recycling District member franchisee's customers. In such cases the Bureau shall appoint another firm to provide the recycling collection service.

17.102.110 Residential Solid Waste and Recycling Rates and Charges. For all service levels of franchised residential service collection, rates and charges shall be as set forth in Figure 6 published at the end of Title 17.

17.102.120 [Reserved]

17.102.130 [Reserved]

17.102.140 [Reserved]

17.120.150 [Reserved]

17.102.160 Exceptions.

- (1) A franchise is not required for the collection or transportation of solid waste and recyclable materials by the following persons:
 - (a) Persons transporting solid waste or recyclable material collected outside the City;
 - (b) Organizations which have been granted non-profit tax status by the federal government or who are organized as non-profit corporations in accordance with ORS Chapter 61 and who do not collect solid waste, recyclable materials or yard debris for compensation.
 - (c) A contractor employed to demolish, construct or remodel a building or structure, including, but not limited to, land clearing operations and construction wastes, when collecting or transporting wastes created in connection with such employment;
 - (d) Landscapers, gardeners, tree service contractors, janitors or renderers when collecting or transporting wastes created in connection with such employment;
 - (e) Persons collecting and transporting waste produced by that person, or the waste produced by four or fewer residences total. For purposes of this Section, solid waste produced by a tenant, licensee, occupant or similar person is produced by that person and not by the landlord;
 - (f) Persons collecting or transporting only waste tires under a valid waste tire storage or carrier permit pursuant to OAR Chapter 340.
 - (g) Persons transporting only reusable beverage containers as defined in ORS 459.860; and

- (h) Federal or state agencies that collect, store, transport and dispose of solid waste or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for such agencies.

17.102.170 Tonnage Fees. Effective February 3, 1991, franchisees shall, when billed by the Bureau of Environmental Services at the end of a calendar quarter, pay Hazardous Waste Remediation fee of \$1.50 per ton of solid waste collected within the City and deposited in disposal facilities authorized by the Metropolitan Service District. The payment shall be made within 15 days of receipt of billing.

17.120.180 Recycling Bin Charges. Effective February 3, 1991, through February 3, 1992, franchisees shall, upon billing each quarter pay a recycling bin charge not to exceed \$1.49 for each recycling bin assigned and delivered to each franchisee in December 1991 through February 1992. Franchisees shall pay one-half the City's contract price for all bins received after February 1992.

17.102.190 Fees Credited to Refuse Disposal Fund.

- (1) All fees, civil penalties and interest received by the Bureau of Environmental Services with respect to solid waste collection or disposal shall be deposited with the City Treasurer and credited to the Refuse Disposal Fund.
- (2) Such fees, civil penalties and interest and any other fees or charges collected by the Bureau of Environmental Services with respect to solid waste collection and disposal shall be used for administration, implementation and operation of solid waste and recycling programs.

17.102.220 Fees Are A Debt. All fees, penalties and interest imposed by this Chapter shall be a debt due and owing to the City of Portland and may be collected by civil action in the name of the City of Portland.

17.102.210 [Reserved]

17.102.220 Franchise System Evaluation.

- (1) On an annual basis, beginning January 1993, the Bureau shall prepare a report on the status and performance of the franchise collection system for the City Council. The report shall comment on progress toward achievement of the relevant goals stated in Section 17.102.010 of this Chapter, and in Bureau budget documents.

- (2) Commencing at least five years prior to the expiration of the initial franchise term, the City Council shall evaluate the franchise system to determine if the system is achieving waste reduction, increased recycling, and cost-effective collection service. Such evaluation shall include an opportunity for public discussion and comment.

17.102.230 Right of Appeal. Upon receipt of a notice of assessment of a civil penalty for any infraction of provisions of this Chapter or the Administrative Rules promulgated thereunder, persons subject to this Chapter may appeal the assessment to the Code Hearings Officer in accordance with procedures set out at Chapter 22 of the Portland City Code.

TITLE 17 PUBLIC IMPROVEMENTS
FIGURE 6
RESIDENTIAL SOLID WASTE AND RECYCLING RATES AND CHARGES

| Service Level | Curbside Monthly Rate | Per Pickup Rate | Non- Curbside Surcharge | Excess Distance Terrain Adjustment |
|--|-----------------------------|-----------------------|-------------------------------|---|
| Can Services: | | | | |
| Minican (20 Gallon) - Once a Week | 13.15 | | 3.00 | 1.00 |
| One 32 Gallon Can - Once a Week | 17.50 | | 3.00 | 1.00 |
| Two 32 Gallon Cans - Once a Week | 28.00 | | 6.00 | 2.00 |
| Three 32 Gallon Cans - Once a Week | 34.50 | | 9.00 | 3.00 |
| Four 32 Gallon Cans - Once a Week | 41.00 | | 12.00 | 4.00 |
| Roll Cart Services: | | | | |
| One Small Cart (32-40 Gal.) - Once a week | 19.25 | | | 1.00 |
| One 60 Gallon Cart - Once a Week | 24.00 | | | 1.00 |
| One 90 Gallon Cart - Once a Week | 27.00 | | | 1.00 |
| Container Services: | | | | |
| One 1.0 Cubic Yard Container - Once a Week | 57.00 | | | |
| One 1.5 Cubic Yard Container - Once a Week | 77.50 | | | |
| One 2.0 Cubic Yard Container - Once a Week | 98.00 | | | |
| Special Services: | | | | |
| One 32 Gallon Can - Monthly or On Call | 8.70 | | 0.75 | 1.00 |
| Weekly Recycling Only Services | 3.20 | | | |
| Occasional Extra Can or Bag | | 5.50 | 0.75 | |
| Tires - On the Rim (per tire, 18" Max Size) | | 3.75 | | |
| Tires - Off the Rim (per tire, 18" Max Size) | | 1.50 | | |
| Clean-up Containers: Cost per Pickup | | | | |
| One 1.0 Cubic Yard Container - On Call | | 32.50 | | |
| One 1.5 Cubic Yard Container - On Call | | 48.75 | | |
| One 2.0 Cubic Yard Container - On Call | | 65.00 | | |
| Multifamily Special Services: | | | | |
| Recycling Surcharge per Extra Dwelling Unit | 2.50 | | | |

| Service Level | Curbside Weekly Service/ Monthly Rate | Per Pickup Rate | Non-Curbside Surcharge | Terrain Adjustment | Per Unit |
|---|---------------------------------------|-----------------|------------------------|--------------------|----------|
| Extra Pickup, Special Pickup or "Call Back" | | \$7.50 | | | |
| Roll cart delivery (after the first cart in any 12 months) | | | | | \$10.00 |
| Recycling Bin Replacement | | | | | \$3.00 |
| Terrain differential, solid waste/recycling customers | | | | \$2.00/mo. | |
| Terrain differential, recycling-only customers | | | | \$1.00/mo. | |
| Multiple roll carts | | | | | |
| Two 60 gallon | \$33.50 | | | | |
| Three 60 gallon | \$44.50 | | | | |
| Four 60 gallon | \$55.50 | | | | |
| Two 90 gallon | \$39.50 | | | | |
| Three 90 gallon | \$53.75 | | | | |
| Four 90 gallon | \$67.75 | | | | |
| Yard Debris units (beyond the first unit per pickup period; each bag or can containing up to 32 gallons is one unit.) | | | | | \$2.00 |
| Yard debris 60 gallon roll cart | | | | | \$3.65 |
| Yard debris 90 gallon roll cart | | | | | \$4.15 |

EXHIBIT A

23438

OCT 7 1986

INTERGOVERNMENTAL AGREEMENT

TRANSFER OF SOLID WASTE AND RECYCLING
COLLECTION SERVICE RESPONSIBILITIES

The CITY OF PORTLAND and MULTNOMAH COUNTY enter into this Agreement pursuant to the authority granted in Chapters 190 and 459 of the Oregon Revised Statutes. The purpose of this Agreement is to provide an integrated waste management system and to ensure recycling collection service for the unincorporated areas awaiting future annexations.

PARTIES TO THE AGREEMENT

The CITY OF PORTLAND is a municipal corporation organized and existing under the laws and constitution of the State of Oregon and is herein referred to as "the City."

MULTNOMAH COUNTY is a Home Rule political subdivision of the State of Oregon organized and existing under the laws and constitution of the State of Oregon and is herein referred to as "the County."

RECITALS

WHEREAS, local jurisdictions, including the City and the County, must ensure the provision of the opportunity for recycling collection, as stipulated by ORS 459, for all areas inside the metropolitan urban growth boundary; and

WHEREAS, the County has adopted Resolution A which provides for the reduction of urban services delivered by the County; and

WHEREAS, the City has adopted an urban services policy which provides for the assumption by the City of urban service responsibilities in currently urban, unincorporated areas of the County by means of annexation or, on an interim basis, through alternative approaches (Resolution 33317); and

WHEREAS, the City and the County anticipate the City will soon annex substantially all of the urban unincorporated areas of the County within the City's Urban Services Boundary (Exhibit A); and

WHEREAS, the City and the County find that the most cost-effective and rational method for the delivery of urban services in urban, unincorporated areas is through full service City government; and

WHEREAS, the City and the County recognize that the long-term interests of each jurisdiction are best served through the full implementation of the City's urban services policy and the County's Resolution A; and

EXHIBIT A

If the need for a type of service arises that is not now foreseen or specifically covered by this rate schedule, then the charge for such service shall be:

1. Uniform and non-discriminatory between customers of a collector;
2. Commensurate with the rates generally charged in the Portland Metropolitan Area;
3. Subject to the approval by the City of Portland.

As used in this Figure 6 the following terms have the meanings described below.

"Non-curb surcharge" is the charge for collection service provided beyond curbside.

"Excess distance/terrain adjustment" is applicable to any collection beyond seventy-five (75) feet from the curb.

"Container service" includes hauler-provided containers ranging from 1.0 cubic yards to 2.0 cubic yards.

"Can service" includes customer-provided containers that do not exceed 32 gallon capacity.

"Roll cart service" includes hauler-provided containers, with wheels, ranging from 35 gallon to 90 gallon capacity.

"Clean up containers" include hauler-provided containers, as defined above, which are provided as requested by the customer for occasional temporary use.

"Curbside" means a collection location that is within three (3) feet of the edge of the public street. The "street" may be a public alley, if the collector wishes to collect solid waste, recyclables or yard debris from the alley. The three foot rule excludes collection from the house side of a fence or enclosure even if the container is within three feet of the street/alley. For residences on a flag lot, or other private road or driveway, "curbside" shall be the point where the conveyance intersects the public street. Can placement shall not impede sidewalk access or passage.

"Residence" means any dwelling unit in the franchise territory that is in a four-plex or smaller, regardless of whether it has individual can, cart or container service.

"Multifamily" means any multidwelling building in the residential franchise territory that contains 2, 3, or 4 dwelling units.

WHEREAS, there are existing Agreements in effect between the City and the County which transfer the responsibility to the City for the provision of other urban services inside the Portland urban service boundary; and

WHEREAS, rules formulated by the State Department of Environmental Quality pursuant to ORS 459 (OAR 340-60), designate all unincorporated areas inside the City's urban services boundary to be within the Portland wasteshed (defined by OAR 340-60-010) as "an area of the State having a common solid waste disposal system or designated by the Commission as an appropriate area of the State within which to develop a common recycling program"); and

WHEREAS, due to imminent annexation of the unincorporated areas inside the City's urban service boundary, any program by the County to implement recycling collection service would only be an interim measure; and

WHEREAS, because annexations occur in an incremental and scattered manner, the most efficient and effective method for implementing recycling collection service is for the City to assume responsibility at once for all areas inside the urban service boundary; and

WHEREAS, the City has adopted a Recycling Plan that recommends entering into an intergovernmental agreement with the County "that links the two jurisdictions and transfers to the City the administration of and ability to assess fees for recycling collection service for unincorporated areas within the Portland wasteshed"; and

WHEREAS, ORS 190.010 and 190.030 provide for intergovernmental agreements between units of local government, including the City and the County, to allow the performance of functions or activities by one unit of local government for another; and

WHEREAS, ORS 459.065 acknowledges the broad intergovernmental cooperation authority found in ORS 190, and specifically authorizes joint city-county solid waste and recycling collection systems;

NOW, THEREFORE, in consideration of the mutual promises contained herein and pursuant to the provisions of ORS 190.010 - 190.030 and ORS 459.065, the City and County agree as follows:

SECTION 1: PURPOSE

The general purposes of this Agreement are:

- A. To provide for an integrated solid waste management system, and to allow for cooperation between the City and County in the joint effort necessary to achieve such a system.

- B. To ensure the provision of uniform and efficient recycling collection service for the entire Portland urban services area.
- C. To provide for an orderly transition of solid waste and recycling collection service responsibilities from the County to the City.
- D. To set forth the terms of the transfer of this urban service function in accordance with City and County Resolutions.

SECTION II: TRANSFER OF FUNCTIONS

A. Effective Date.

Transfer from the County to the City of the responsibilities described herein shall occur on September 18, 1986.

B. Functions Transferred.

1. The City agrees to:

- a. Assume responsibility for providing the "opportunity to recycle," as defined by ORS 459.165, for unincorporated areas inside the urban services boundary. Services will include ensuring the provision of curbside collection as well as a recycling promotion and education program, consistent with the requirements of ORS 459. Assumption of responsibilities is contingent upon Board of County Commissioners adoption of ordinances establishing compatible fee schedules and implementation requirements.
- b. Regulate solid waste collection in the unincorporated areas of Multnomah County inside Portland's urban services boundary, including the assessment and collection of fees to generate all revenue needed for Portland's planning, administration, and operation costs of recycling and solid waste collection programs in such areas.

2. The County agrees to:

- a. Develop and submit to the Board of County Commissioners ordinances granting to the City the additional authorization required to carry out the intent of this Agreement.
- b. Cooperate with the City in the design and implementation of curbside collection service and the recycling promotion and education program within the unincorporated areas.

C. Rights to Fees.

All revenue derived from fees assessed to haulers for operations within the unincorporated areas within the Portland watershed shall accrue to the City, for use in providing solid waste services.

SECTION III: GENERAL TERMS

A. Separability.

If any section, subsection, clause or phrase of this Agreement is determined by any court or arbitrator of competent jurisdiction, to be invalid or unenforceable for any reason, such determination shall not affect the validity of the remaining Agreement, which shall continue to be in effect.

B. Termination.

This Agreement shall continue indefinitely unless terminated upon six months written notice by either party.

C. Amendments.

This Agreement may be amended by mutual agreement of the parties.

IN WITNESS WHEREOF, the authorized representatives of the City and the County, as parties hereto, acting pursuant to the authority granted to them, have

HEREBY AGREED:

CITY OF PORTLAND

MULTNOMAH COUNTY

By *Dick Bogle*
Dick Bogle
Commissioner of Public Works

By *Dennis Buchanan*
Dennis Buchanan
County Executive

Date: 000

Date: 9/23/84

by *Jewel Lansing*
Jewel Lansing, Auditor

APPROVED AS TO FORM

By *Jeffrey L. Rogers*
Jeffrey L. Rogers
City Attorney

By *Peter Kasting*
Peter Kasting
Assistant County Counsel

44:recy-agree