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4 **BEFORE THE BOARD OF COMMISSIONERS**
5 **FOR THE COUNTY OF POLK, STATE OF OREGON**
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9 In the Matter of Enacting)
10 Amendments to Chapter 70 of the Polk)
11 County Code of Ordinances)
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15 **ORDINANCE NO. 24-04**
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17 THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:
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19 Sec. 1. Enactment. Polk County Code of Ordinances is amended by the enactment of
20 amendments to Chapter 70. Specifically, §§ 70.0714 and 70.0801 of the Polk
21 County Code of Ordinances as it currently reads is hereby replaced with new
22 provisions, which reads in full as follows:
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24 - See Attached Exhibit A
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26 Sec. 2. Severability. Should any section or portion of this ordinance be held unlawful or
27 unenforceable by any court of competent jurisdiction, such decision shall apply
28 only to the specific section or portion thereof, directly specified in the decision.
29 All other sections or portions of this ordinance shall remain in full force and
30 effect.
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32 Sec. 3. Emergency. This ordinance being immediately necessary to protect public safety
33 and property, and emergency is declared and this ordinance is effective
34 immediately upon passage.
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1 Dated this 5th day of June, 2024 at Dallas, Oregon.
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5 **POLK COUNTY BOARD OF COMMISSIONERS**

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8 Craig Pope, Chair

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12 Lyle Mordhorst, Commissioner

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16 Jeremy Gordon, Commissioner

17 Approved as to form

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20 Morgan Smith
21 County Counsel
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26 First Reading: 5/22/2024

27 Second Reading: 6/5/2024

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29 Recording Secretary: 

70.0714 FRANCHISE OR PERMIT FEES.

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

(1) Any collection franchise, an annual fee of 3 percent of the gross receipts from providing service to the franchised service area.

(2) Any disposal ~~or transfer~~ franchise shall pay an amount equal to not less than 8 percent nor more than 15 percent of the gross income from the disposal service provided by the franchisee. Amount to be established by resolution of the Board.

(3) Any transfer franchise shall pay for first (1st) year of operations, an amount equal to one dollar (\$ 1.00) per ton on all ORS chapter 459 Solid Waste and materials and one (1) percent of the gross receipts on all ORS chapter 459 Solid Waste. For each subsequent year thereafter, up to year five, the amount any transfer franchise shall pay shall increase by one (1) percent each year and one dollar (\$1.00 per ton each, to a maximum percent of five (5) percent and five dollars (\$ 5.00) per ton thereafter.

~~(43)~~ The collection ~~and disposal, and transfer~~ franchise fee shall be computed and be payable to Polk County quarterly within thirty (30) days from the end of the calendar quarter. The fee shall be accompanied by a sworn statement of such cash gross receipts.

~~(54)~~ Within 105 days after the end of each franchisee's fiscal year, collection and disposal franchise holders shall file with the Administrator a sworn and verified financial report for the previous year and shall pay any and all additional fees which have not previously been paid upon monthly gross income.

~~(65)~~ The Administrator will provide forms to the franchise holders for filing the financial report. The content and form shall be established by order or resolution of the Board.

~~(76)~~ Every collection and disposal franchise holder shall maintain books and records disclosing the gross income receipts for the collection service area or disposal site, which books and records shall be opened at reasonable times and places for audit by the authorized personnel of Polk County.

~~(87)~~ Any applicant for an exemption pursuant to Section 70.402 (2), a processing fee of \$150, and an annual permit fee of \$30, each year thereafter.

~~(98)~~ Any applicant for a supplemental rate adjustment pursuant to Section 70.0801 (2) (B), a processing fee of \$150.

~~(109)~~ Any recycling depot exemption granted under Section 70.0402 (5), an annual fee of \$30.

~~(110)~~ Any transfer of franchise granted pursuant to Section 70.0716, a processing fee of

\$150.

(124) A late payment penalty of 1.5 percent per month but not less than \$100 shall be assessed for failure to submit the quarterly payment and the annual financial report within the time frame prescribed by paragraphs (3) and (4) of this section.

70.0801 DETERMINATION OF RATES.

(1) The existing approved rate schedule, as of the effective date of this Ordinance, shall be deemed to be in effect.

(2) For Collection and Disposal Franchise Holders, the ~~The~~ maximum rates in effect at the time this Ordinance takes effect and thereafter, shall be subject to review and change only one time in a calendar year beginning January 1 and ending December 31 the same year. However:

- (a) Upon application, the Administrator may, in writing, grant an interim or emergency rate for new, special, or different service. The Administrator shall submit a report of the decision to the Board for review. The effective date of the service and rate shall not precede Board review. The Administrator shall set the duration of said rate or continue it until the next overall rate adjustment.
- (b) In addition to an annual rate adjustment, a supplemental rate adjustment may be requested when the cost of service is increased by governmental regulations and compliance therewith; or when there is substantial increase in a single expense that was not anticipated at the time of the last rate adjustment; or when the total cost of service exceeds projected costs by 5 percent or more.

(3) Applicants for an annual rate adjustment to a collection and disposal franchisee's rate schedule adjustment must submit the request on approved forms 90 days prior to the effective date of the proposed rate change.

(4) No franchise holder shall charge a rate greater than that established by the Board. All collection rates within any classification shall be applied uniformly. Any franchised collector who wishes to charge a preferential collection rate, including a reduced rate for charitable non-profit or benevolent organizations, shall give written notice to the Administrator 10 days prior to the implementation of a preferential collection rate. The preferential rate shall be deemed approved unless the Administrator, in writing, disapproves the preferential rate prior to implementation. If the Administrator disapproves the preferential rate, the franchise collector may appeal the decision to the Board of Commissioners within 10 days after the denial. The appeal must be filed with the Board of Commissioners with a duplicate being forwarded to the Administrator. The appeal shall state wherein the Administrator failed to conform to the provisions of this Ordinance and why the preferential collection rate should be granted. The Board shall review the action of the Administrator and may refer the matter back to the Administrator for further consideration and investigation if it is deemed advisable. The Board may similarly, after considering the appeal, affirm the action of the Administrator and deny the appeal. If the Board is of the opinion that additional facts warrant further action, the Board may set the matter for a public hearing and shall give notice of the time and place of such hearing to the franchised collector, the Administrator and Polk County Legal Counsel, as well as having notice of the public hearing published in a newspaper of public record located in the area in which the collector is franchised. After the hearing, the Board may reverse or affirm or may impose such conditions as the facts warrant, and its decision or

determination shall be final. Any hearing may be continued from time to time.

(5) Upon recommendation by the Administrator, the Board may:

- (a) Approve and establish rates filed by applicants ~~for franchises~~ if it finds that such rates are not demonstratively unreasonable and are not substantially higher than those charged generally in the County under similar service requirements and for the same or similar quality of service, or it may establish a different rate schedule.
- (b) Establish uniform rates throughout the County or establish rates that are uniform within zones based upon the length of haul to disposal sites, concentration of customers, and other factors which may, in the opinion of the Board, justify establishment of rate differentials.
- (c) Establish rates for disposal sites that are uniform throughout the County or different rates for each site or class of sites.
- (d) Increase or decrease rates based on the cost of doing business.
- (e) Establish an interim rate until the Board makes a final determination on the rate for that type of service.

(6) In determining rates, the Administrator and the Board shall make a finding that the rates of a collection or disposal franchisee will be just, fair, reasonable, and sufficient to provide proper service to the public. The Administrator and the Board may consider rates charged by other persons performing the same or similar service in the same or other areas. The Administrator and the Board shall give due consideration to:

- (a) The investment in facilities and equipment.
- (b) The services of management.
- (c) Local wage scales.
- (d) The concentration of customers in the area served.
- (e) Methods of storage, collection, transportation and disposal, salvage, recycling, or reuse.
- (f) A reasonable return to the collection and disposal franchisee.
- (g) The length of haul to disposal facilities.
- (h) The cost of disposal.
- (i) The use of transfer stations or transfer systems and the added costs.

- (j) The cost of alternate methods of disposal.
- (k) The future service demands of the service area or disposal site which must be anticipated in equipment, facilities, personnel, or land.
- (l) Extra charges for special pickups or pickups on days where service is not normally provided on a collection route.
- (m) Extra charges where the type or character of waste or solid waste, including but not limited to wastes with peculiarly offensive odors, requires special handling or service.
- (n) Extra charges for providing janitorial services on the premises where service is provided.
- (o) In addition, with respect to disposal sites, the type of site, whether the site is open to the public, and hours, type of waste disposed of, and method of disposal.
- (p) Cost of compliance with laws, ordinances or regulations and rules of public agencies or bodies having jurisdiction.
- (q) Other factors that may, in the opinion of the Administrator and the Board, necessarily affect the rates to be charged.

(7) The Board may require an investigation by the Administrator of any proposed collection or disposal franchisee's rates. For the purpose of making this investigation, the Administrator is authorized to hold public hearings and to take and receive testimony. Upon completion of such an investigation, the Administrator shall report the results of any public hearing, make findings, and submit a recommendation to the Board.

(8) The Administrator shall provide a Collection and Disposal Rate Application that shall incorporate the considerations set forth in this Ordinance for providing an adequate review of any rate application. The form and content of the application shall be established by order or resolution of the Board.

(9) Polk County reserves the right, at any time during the period of a collection and disposal franchise/permit, to examine the rate structure of a collection and disposal franchisee or permittee and to modify rate charges that, in the discretion of the Board, are reasonably required.

(10) Rates for a transfer franchisee shall be determined based on the following:

a. Prior to providing service and every fourth year thereafter (the "fourth-year review"), the transfer franchisee will prepare a cost-of-service analysis and any other requirements within the applicable franchise agreement to establish new rates.

i. Criteria for review shall be the same as PCCO 70.0801(6) as applicable to a

transfer station.

ii. Prior to implementation of any new rates, the Board of Commissioner's qualified designee. County may set the matter for a public hearing before the County's hearings officer and shall give notice of the time and place of such hearing to the franchised collector, the Administrator and Polk County Legal Counsel, as well as having notice of the public hearing published in a newspaper of public record located in the area. After the hearing, the Board may reverse or affirm or may impose such conditions as the facts warrant, and its decision or determination shall be final. Any hearing may be continued from time to time.

b. During every year that is not a fourth-year review, the Board of Commissioner's qualified designee and the Franchisee may agree to adjust the rate schedule once a year.

i. The Adjusted Rate shall be based on:

1. The existing rate;
2. The Franchisee's prior year's certified financial statements;
3. Any CPI Increase; and
4. All costs of disposal, transportation, regulatory modifications, and/or
5. Any other criteria outlined in the applicable franchise agreement.

c. At any time, the Board of Commissioner's qualified designee or the Franchisee may initiate a review of the current rate schedule as permitted in the applicable franchise agreement.;