

**MORROW COUNTY
SOLID WASTE MANAGEMENT ORDINANCE**

SECTION 1.000. TITLE

This ordinance shall be known as the "Solid Waste Management Ordinance" (Ordinance) and shall be so cited and pleaded.

SECTION 2.000. DEFINITIONS

The definitions to be applied to this Ordinance are found in the Morrow County Solid Waste Management Plan and shall be used as such. The definitions are provided as an addendum to this Ordinance.

SECTION 3.000. PURPOSE AND POLICY

To protect the health, safety and welfare of the people of Morrow County, hereafter referred to as the County, and to meet the goals of the Solid Waste Management Plan, it is declared to be the policy of the County to regulate solid waste management by:

1. Following the priorities on managing solid waste provided in Oregon Revised Statute (ORS) 459.015(2);
2. Providing for the safe and sanitary accumulation, storage, collection, transportation and disposal of solid waste;
3. Providing the opportunity to recycle as part of the overall solid waste plan;
4. Providing for public input in solid waste management and recycling through the Solid Waste Advisory Committee; and
5. Prohibiting accumulation of waste or solid waste on private property in such manner as to create a public nuisance, a hazard to health or a condition of unsightliness, and to provide for the abatement of such conditions where found.

SECTION 4.000. COUNTY RESPONSIBILITIES

The Administrator, (Administrator means the Planning Director, or other person(s) designated by resolution of the County Court to administer the Solid Waste Management Plan and this Ordinance, and the duly authorized deputy or assistant of such person) under the supervision of the County Court, shall be responsible for the administration and enforcement of the Morrow County Solid Waste Management Ordinance. In order to carry out the goals and duties imposed by the Morrow County Solid Waste Management Plan and Ordinance the Solid Waste Advisory Committee through the Administrator or the Administrator's authorized designee shall have the discretion to expend funds for any and all solid waste management activities within an approved budget.

SECTION 5.000. PUBLIC RESPONSIBILITIES

Public responsibility requires the citizens of Morrow County comply with items two and five of Section 3.000 Purpose and Policy of this Ordinance.

5.010. Transportation of Solid Waste

No person shall transport or self-haul, as defined in the Solid Waste Management Plan, solid waste on a public road unless such waste or solid waste is covered and secured. "Covered and Secured" includes:

1. Loads which are totally contained within an enclosed vehicle or container;
2. Loads of solid waste contained in garbage cans with tightly fitting lids, tied plastic solid waste disposal bags or similar totally enclosed individual containers that are completely contained within the walls of a vehicle or container, such that no solid waste can reasonably be expected to escape during hauling;
3. Loads of brush, building materials and similar bulky materials which are secured in or on the hauling vehicle or completely contained within the walls of a vehicle or container, such that none can reasonably be expected to escape during hauling; or
4. Loads consisting entirely of rock, concrete, asphalt paving, stumps and similar materials that are completely contained within the walls of a vehicle or container, such that none can reasonably be expected to escape during hauling.

5.020. Accumulation, Littering and Disturbance of Solid Waste Prohibited

No person shall accumulate or store wastes in violation of the Morrow County Nuisance Ordinance or in violation of regulations of the Oregon Littering Provisions (ORS 164.775 - 805).

No unauthorized person shall remove the lid from any solid waste container or collect, disturb or scatter solid waste stored in the container or deposit solid waste into the container.

5.030. Responsibility for Proper Disposal of Hazardous Waste

The owner, operator, or occupant of any premise, business, establishment, or industry shall be responsible for the satisfactory and legal disposal of all hazardous solid waste generated or accumulated by them on the property. All hazardous solid wastes shall be disposed of at an appropriate solid waste disposal site licensed to receive such waste, or in a manner consistent with Department of Environmental Quality regulations. It shall be unlawful for any person to dump, deposit, bury, or allow the dumping, depositing or burying of any hazardous solid waste onto or under the surface of the ground or into the waters of the state, except at a State permitted solid or hazardous waste disposal site.

5.040. Open Burning

Woody debris, brush, leaves, grass, tumbleweeds, wood and cuttings from trees, lawns, shrubs and gardens (excepting paper, cardboard, or wood containers in commercial quantities) may be burned on private property only if the method of burning is approved by the local fire department and is done in accordance with the rules and regulations of the Oregon Department of Environmental Quality. Agricultural open burning is allowed pursuant to Oregon air pollution laws (ORS 468A.020) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

Open burning of any waste materials, including on agricultural lands, that normally emit dense smoke, noxious odors, or that create a public nuisance is prohibited. These materials include, but are not limited to, household garbage, plastics, wire, insulation, auto bodies, asphalt, waste petroleum products, rubber products, animal remains, and animal or vegetable wastes resulting from the handling, preparation, cooking, or service of food.

SECTION 6.000. SOLID WASTE ADVISORY COMMITTEE (SWAC), ESTABLISHMENT, MEMBERSHIP AND RESPONSIBILITIES

There shall be a Solid Waste Advisory Committee (SWAC). The purpose of the SWAC shall be to help discharge and manage Morrow County's solid waste management agenda duties.

6.010. Duties.

The duties of the Solid Waste Advisory Committee shall be to:

1. Provide a forum for citizen comments, questions and concerns about solid waste topics

as deemed appropriate and necessary by the County Court

2. Provide leadership for the development, funding and implementation of the County's solid waste programs, including meeting state mandated recycling goals;
3. Create an Annual Report for the County Court documenting implementation of the Solid Waste Management Plan and any necessary regulations or amendments to the Solid Waste Ordinance. (The Annual Report shall also summarize local citizens' concerns about solid waste);
4. In consultation with responsible public officials and interested persons, periodically review the Solid Waste Management Plan and provide recommendations for modification to the County Court;
5. Develop and recommend to the County Court standards for the location of recycling and/or collection sites in order to provide service to under-served areas. (These standards will include, but not be limited to, protection of adjacent and nearby residents); and
6. Recommend to the County Court solid waste collection rates and the adjustment of these rates, based upon information submitted by the County's solid waste collection franchisees.

6.020. Membership.

The Solid Waste Advisory Committee membership shall consist of seven persons appointed by the County Court. The Court may appoint or approve designation of alternates to serve in the absence of persons appointed to the Committee. The Committee shall select one member as Chair and another as Vice-Chair. Four members of the Committee shall constitute a quorum for the transaction of business. The Committee shall meet at least four times each year. The Committee members shall serve a term of four years, each term commencing on July 1 of each renewal year. Committee membership terms shall be established so that the terms of membership do not expire at one time. Administrative support shall be provided by the Administrator or designee. The Committee membership shall include the following positions:

POSITION	REPRESENTATION	TERM TO RENEW IN YEAR:
Position One	Representative of Finley Buttes Landfill	2005
Position Two	Representative residing near or adjacent to Finley Buttes Landfill	2005
Position Three	Representative of owners of real property near or adjacent to Finley Buttes Landfill	2006
Position Four	Representative of the Port of Morrow or an incorporated City of Morrow County	2006
Position Five	Representative of the franchised solid waste collectors serving the County	2007
Position Six	Person representing the County at large	2007
Position Seven	Person representing the County at large	2008

The following persons may be appointed by the Court as ex officio members to participate in Solid Waste management Ordinance

proceedings of the Committee, but not to vote: the County Public Works Director, the County Planning Director, and a representative of the County Court. Regularly invited guests should include, but not be limited to, designee of the Department of Environmental Quality, cities, and rural fire protection districts. In order for guests or ex-officio members to become fully participating members of the Solid Waste Advisory Committee, this Ordinance must be amended to allow a larger membership.

SECTION 7.000. FRANCHISING OF SOLID WASTE COLLECTION

No person shall solicit for service customers or provide solid waste collection service for compensation in the County without first acquiring a franchise as required by this Ordinance unless specifically exempted as listed in this section. This franchise requirement does not apply within the limits of an incorporated city, except as may be provided through an agreement between the city and the County.

7.010. Exemptions to Requirement for Solid Waste Collection Franchise

The following persons or practices are exempt from the requirements of this Section:

1. A private charitable organization which regularly engages in the collection and reuse of repairable or cleanable discards, such as the Salvation Army, St. Vincent DePaul, Goodwill, and similar organizations;
2. A religious, charitable, benevolent or fraternal organization, which is not organized for solid waste management purposes, and which is using the activity for fund raising, such as scouts and churches, and which collects, reuses or recycles totally source separated materials, or operates a collection center for totally source separated materials;
3. The collection, transportation or redemption of returnable beverage containers under the "Bottle Bill" (ORS Chapter 459);
4. A producer who transports and disposes of waste created as an incidental part of the regular operation of a licensed business, such as an auto wrecking business, a janitorial service, a gardening or landscaping service, and a septic tank pumping or sludge collection or disposal service;
5. A person who deals in the practice or business of totally source separated solid wastes and selling these materials for fair market value and when the activity has been licensed under this Ordinance with a Recycling License under Section 8.000; and
6. A self-hauler, as defined in the Solid Waste Management Plan, hauling solid waste and/or recyclables to a permitted solid waste disposal site.

7.020. Application for a Collection Franchise

Application for a collection franchise shall be made on forms provided by the Administrator. In addition to information required on the forms, the Administrator may require the filing of any additional information deemed necessary to insure compliance with this Ordinance. The forms shall provide for the application for a new collection franchise, a transfer, or an expansion of the collection area.

An applicant for a collection franchise or for a collection franchise transfer shall demonstrate the following to the satisfaction of the Court:

1. The need for the collection service in the area applied for;

2. Has a majority of the service accounts in the service area for which they have applied, as evidenced by a list of customers served;
3. The applicant has available collection vehicles, equipment, land, facilities, personnel and sufficient financial resources to provide the proposed service and to meet the standards established by ORS Chapter 459 and applicable administrative rules. If the applicant proposes to serve an area which is wholly or in part under franchise to another person/organization, or to replace such person/organization upon expiration of the existing franchise, the applicant shall have available on the beginning date of the proposed franchise term collection vehicles, containers and other equipment equal to that presently used in servicing the area;
4. The applicant has sufficient experience to insure compliance with this Ordinance. If the applicant does not have sufficient experience to the satisfaction of the Court, the Court may require the applicant to submit a corporate surety bond, issued by a person or company authorized to do business in the State, in the amount of not less than \$20,000, guaranteeing full and faithful performance by the applicant of the duties and obligations of a franchisee under the provisions of this Ordinance and applicable federal, state and local laws and rules or regulations, and holding Morrow County harmless from liability;
5. The applicant shall submit a certification acceptable to the County Court of public liability insurance with a thirty (30) day notice of cancellation clause, covering the business's operations and including coverage of each vehicle operated by the applicant. The insurance coverage shall be in the amounts equal to, or over the amounts established as the minimum requirements by the Oregon Tort Claims Act now in force or as modified by future legislative action. The insurance shall indemnify and hold Morrow County harmless against any liability or damage to persons or property arising from the franchisee's business operation; and
6. When requesting a transfer of franchise, the applicant must submit, as part of the application, a letter from the current franchisee requesting the transfer.

7.025. Existing Collection Providers

Persons providing collection service on the effective date of this Ordinance, whether or not that service has been already provided pursuant to a franchise or order, and who are not exempt under this Ordinance shall file an application for an appropriate franchise together with any required information within 60 days after the effective date of this Ordinance. Upon filing the application, such person shall continue to provide existing service until a final determination on the application is made by the County Court or a circuit court on appeal.

7.030. Application Review

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

Upon receipt of an application, the Administrator shall give notice to the holder of or applicant of another franchise for any part of the service area under consideration, or whose existing or proposed service area would likely be affected by the franchise application under consideration.

Unless the time is extended by the Court for good cause, the Administrator shall make a recommendation on the franchise to the Court within 30 days after the application and any required supplemental information have been received.

The Court:

1. May require additional investigation to be made or information to be submitted;
2. May, after providing written notice to interested persons, call an informational public hearing to allow interested persons to testify orally or in writing;
3. Shall, upon the basis of the application and any evidence or testimony submitted, and the Administrators' recommendation, make a finding on the qualifications of the applicant and also on whether additional area should be included; additional services should be provided; additional equipment, facilities, land or personnel should be provided; and whether additional conditions should be imposed; and
4. Shall, upon the basis of its findings, grant, deny, modify or attach appropriate conditions to the application within 30 days from the date of receipt of the recommendation from the Administrator.

Upon receipt of the order granting the franchise, the applicant shall enter into a written franchise agreement with Morrow County which requires compliance with this Ordinance, any applicable provisions of ORS Chapter 459, and any rules promulgated thereunder. The agreement shall provide for the franchisee or the County to, upon mutual agreement, negotiate amendments or modifications of the agreement.

If the Court makes a final order rejecting all or part of the application for a franchise, the applicant may not submit another application containing all or a portion of the same service area for a period of six months unless this provision is waived by the Court upon a finding that the public interest requires reconsideration within a shorter period of time.

7.040. Responsibilities of Franchisees

Service.

Franchisees shall furnish adequate and reliable service as authorized and required by the franchise and this Ordinance, ORS Chapters 459 and 459A, and all other applicable laws, rules, or regulations and at rates established by the Court.

Recycling.

The franchisee shall work with the County to help implement and meet the State reuse and recycling requirements as outlined in the franchise agreement.

Discontinuation of Service.

Except as provided in the Exceptions paragraph below, no franchisee shall voluntarily discontinue service to any of their service area until the franchisee has:

1. Given 90-day written notice to affected customers in the service area;
2. Given 90-day written notice to the Administrator; and
3. Obtained approval of the Court.

Complaints and Records.

1. The franchisee shall respond in a timely manner to any written complaints regarding service; and
2. The franchisee shall keep accurate books and records which shall be available during regular business hours for inspection and review by a qualified person designated by the Administrator. Records shall be generated and maintained according to general accounting practices.

Reporting.

The franchisee shall file, at a minimum, an annual franchise report to the County Court for the preceding year as stipulated in the franchise agreement. Additionally, the franchisee shall submit a recycling report to the Administrator.

Exceptions.

This Ordinance shall not apply to termination of collection service due to:

1. Damage, destruction or failure of equipment due to an act of God;
2. Adverse weather which makes service impossible;
3. Change, restriction or termination of service when required by any public agency, public body or court having jurisdiction;
4. Customer refusal to pay for service in accordance with franchisee's established rates;
5. Transfer of franchises pursuant to this Ordinance;
6. A finding by the Administrator that service at the particular location would jeopardize the safety of the driver of a collection vehicle or of the motoring public, that the customer has not provided reasonable access to the pickup point for the solid waste containers or recyclable materials without hazard or risk to the person providing service, or that weather conditions prevent service to the particular customer;
7. Non compliance with any rule or regulation as outlined in the franchise; and
8. Road closures.

7.050. Rate Standards.

Upon recommendation by the SWAC, the County Court shall be responsible for the determination of rates or the establishment of rates, the adjustment of existing rates, and the adjustment of existing rate differentials by zone. This determination shall be based upon information submitted by the franchisee and shall be determined at a public hearing.

When a franchisee wishes to adjust existing rates, a written request, with justification, shall be made to the Administrator. Before any rate is adjusted, the Administrator shall conduct an investigation and make a recommendation to the Solid Waste Advisory Committee (SWAC) at a regularly scheduled SWAC meeting, who will then make a recommendation to the County Court. The County Court shall consider the matter at a regularly scheduled public hearing. The County Court shall then issue an order, setting forth its findings and the appropriate rates and their effective date.

In consideration of rate adjustment, the SWAC and County Court shall give consideration to, but not be limited to, the following:

1. Current and projected revenues;
2. Current and projected operating expenses;
3. Acquisition and replacement of equipment;
4. Professional and consultant services;
5. Construction and maintenance costs;
6. Research, training, and development;
7. Special services;
8. Recycling costs;
9. Reasonable operating margin; and
10. Other matters as deemed relevant by the Court.

Where no rate has been established for a particular type of service, the County Court may establish an interim rate, pursuant to the factors listed above, and included therein shall be a time limit on the interim rate not to exceed 60 days until a final determination is made by the County Court.

7.060. Renewal of Franchise

The franchise shall begin, at the adoption of the order and shall be considered as a continuing five-year franchise. That is, beginning January 1 of each year, the franchise will be considered renewed for an additional five year term, unless at least ninety (90) days prior to January 1 of any year either party shall notify the other party in writing of intent to terminate further renewals of this franchise. The Court may later reinstate continuing renewals upon mutual agreement with the franchisee. Nothing in this section restricts the Court from suspending, modifying, or revoking the franchise for cause as outlined in succeeding sections of this Ordinance.

7.070. Interruption of Service

Whenever the Court finds that a franchisee's interruption of service could result in creation of a health hazard or a public or private nuisance, the Court shall have the right to, in an Emergency Order, issue a franchise to a qualified solid waste collector to provide service so long as the immediate danger to the public health, or public or private nuisance continues.

7.080. Enforcement and Corrective Action

The following actions may be taken:

Investigation.

The Administrator, upon reasonable cause, may make an investigation to determine if there has been a violation of this Ordinance by the franchisee.

Notice of Violation.

If, in the judgement of the Administrator, based upon his or her investigation, there is sufficient evidence to conclude there has been a violation, the Administrator shall notify the franchisee, in writing, of the violation and require the franchisee to take steps to correct the violation and to follow the requirements set forth in the notice. The Administrator shall send a copy of the notice to the Court.

Response.

The franchisee shall provide a written response to the notice within ten calendar days of receipt. The response shall indicate whether the franchisee agrees that there has been a violation and whether, when and how corrective action will be taken. If it appears that the franchisee is unable to or refuses to correct the violation, the Administrator shall make a recommendation to the Court concerning appropriate action. The Administrator may recommend that the franchise be suspended, modified or revoked or that it not be renewed, or that any conditions the Administrator deems appropriate be imposed.

7.085. Suspension, Modification, Revocation or Refusal to Renew Franchise

Upon recommendation of the Administrator or on the Court's own motion, the Court may suspend, modify, revoke or refuse to renew a franchise upon a finding that the franchisee has:

1. Willfully violated this Ordinance or Oregon Revised Statute 459, the Franchise, or rules or regulations promulgated thereunder;
2. Made a material misrepresentation in any written documents required to be submitted by the franchisee;
3. Willfully refused to provide service required by this Ordinance or the Franchise, or to take any corrective action required under this Ordinance after written notification and a reasonable opportunity to do so; or
4. Misrepresented the gross receipts from the franchise service area if such reports are

required to be submitted by this Ordinance or by order of the Court.

Effective Date - Emergency Order.

If the Court, by order, suspends, modifies, revokes or refuses to renew a franchise, the action shall not become effective until 30 days after the date of the order unless the Court finds that the order should take effect earlier to prevent a serious and immediate danger to the public health or a public nuisance. The Court may, in an Emergency Order, issue a franchise to a qualified solid waste collector, to provide service so long as the immediate danger to the public health or public nuisance continues.

Public Hearing.

The affected franchisee may request a public hearing before the Court by filing a written request for such hearing with the Court within 30 days after the date of the order. Upon filing the request, the Court shall set a time and place for a public hearing. Unless the Court finds it necessary to prevent a serious and immediate danger to the public health or a public nuisance, the Court's action shall not take effect until after the public hearing and final order. The franchisee, other interested persons, affected public agencies or bodies may submit oral or written evidence to the Court relevant to the Court's order.

Final Order.

The Court shall, following the public hearing and within 30 days thereafter, affirm, amend or rescind its prior order based upon the evidence contained in the record of the public hearing. The Court shall make written findings of fact based upon such evidence. Subject to circuit court review, pursuant to ORS 34.010, et. Seq., the determination of the County Court shall be final.

SECTION 8.000. LICENSING FOR RECYCLING

No person shall collect solid waste or source separated recyclable material with the intent to recycle as a for-profit business within unincorporated Morrow County without first obtaining a recycling license under this Ordinance. No license shall be issued to recyclers who intend to charge a fee for receiving materials meant to be recycled.

8.010. Exemptions

Morrow County will exempt the following persons from the recycling license requirement so long as that person reports recycled material toward meeting the State mandated recycling goals when recycling reporting is applicable to a particular activity.

1. A person who sells their own source separated recyclable material generated from their residence or business, excluding those source separated recyclable materials generated by their tenant(s).
2. Persons who are authorized by franchise or under this Ordinance to collect recyclables.
3. Persons who transport recyclable materials from outside Morrow County or through Morrow County.
4. Persons who collect, dispose of, or recycle, rendered animal products, forest products or industrial residues (not to include principal recyclable materials as determined by the Department of Environmental Quality), or materials used for productive purposes in agricultural operations.
5. Persons licensed by the State of Oregon and engaged in conducting business as an auto wrecker or dismantler.
6. Any retail outlet that collects waste oil from the public at no fee.
7. A private charitable organization which regularly engages in the collection and reuse of repairable or cleanable discards, such as the Salvation Army, St. Vincent DePaul, Goodwill, and similar organizations.
8. A religious, charitable, benevolent or fraternal organization, which is not organized for solid waste management purposes, and which is using the activity for fund raising, such as scouts and churches, and which collects, reuses or recycles totally source separate materials, or operates a collection center for totally source separated materials.
9. The collection, transportation or redemption of returnable beverage containers under the

“Bottle Bill” (ORS Chapter 459).

8.020. Application

Application for a recycling license shall be made on forms provided by the Administrator for County Court approval. In addition to information required on the forms, the Administrator may require the filing of any additional information deemed necessary to insure compliance with this Ordinance.

8.030. Applicant Requirements

Each applicant shall demonstrate to the satisfaction of the County Court that:

1. The applicant has obtained Land Use Approval for the recycling site or facility. The Land Use Approval shall utilize the Morrow County Zoning Ordinance and applicable criteria;
2. The applicant has the knowledge, ability, and training necessary to safely manage hazardous materials and emergency response, if applicable;
3. The applicant is able to document end-use markets or provide evidence that the recyclable material can and will be periodically moved off the facility property to markets; and
4. The applicant has appropriate financial assurance to ensure proper closing and/or cleanup of the facility consistent with State environmental requirements.

8.040. License Requirements

Each license shall be dated as of the first day of the month in which it is issued or the month when it was required to have been obtained, and it shall expire one year from that date. The license will be considered automatically renewed each year unless at least sixty (60) days prior to the normal expiration date of the license either party shall notify the other party in writing of intent to terminate further renewals of this license. The recycling license will be the controlling document wherein the County Court specifies the terms and conditions and financial assurances necessary for the recycling activity. The license shall hold the condition that the licensee not place a charge on receiving materials meant to be recycled.

8.050. Financial Assurance

The amount of financial assurance required by the County Court shall be negotiated on a case-by-case basis to be calculated based on the following considerations:

1. The potential cost of removal and disposal or sale of materials in the case of the premises being abandoned or the operator becoming insolvent;
2. Site cleanup as a result of gradual contamination; and
3. Cleanup of sudden and accidental events.

The assurance may be in the form of insurance, letter of credit, performance or surety bond, Cashier’s Check, or a Certificate of Deposit drawn on an established Oregon bank. The County may set up a fund to be contributed to by recycling licensees from which recycling mitigation expenses incurred by the above events could be paid for.

8.060. Record Keeping

Each person required to be licensed under this Ordinance shall furnish to the Administrator, on such forms as the licensee shall provide, information including the manner in which recyclables are being collected or received and the amounts of such materials received. Such report shall be furnished at times designated by the Administrator but at least on an annual basis. The report may coincide with reporting requirements of the Department of Environmental Quality. Failure to furnish such information as required by the Administrator shall be grounds for refusal to issue another recycling license upon expiration of the current license period.

SECTION 9.000. LICENSING OF SOLID WASTE DISPOSAL

In order to provide for the protection and preservation of land uses which might be adversely impacted by solid waste disposal and to ensure that solid waste disposal sites and facilities, including composting facilities, will not constitute nuisances to other land uses, no solid waste disposal site shall be established, maintained, substantially altered, expanded, or improved until the person operating such site has obtained an Oregon Department of Environmental Quality permit, Land Use Approval and a Solid Waste Contract/Agreement from Morrow County. This requirement does not apply within the limits of an incorporated city, except as may be provided through an agreement between the city and the County.

9.010. Conditions for Exemptions to Requirement for Solid Waste Disposal License

All solid waste disposal sites listed hereunder may be exempted from approval as required by this Ordinance, after administrative review prior to an allowance as an exception.

1. Any disposal site not required to have an Oregon Department of Environmental Quality or Oregon Department of Agriculture Permit;
2. A landfill which is used by the owner or person in control of the premises to dispose of clean fill materials;
3. A portion of land or a facility specifically possessing a waste water discharge permit pursuant to ORS Chapter 468 and in compliance with all Oregon Environmental Quality Commission regulations on solid waste management;
4. Land on which solid wastes are used, at agronomic rates, for fertilizer or for other productive purposes in agricultural operations, not including composting facilities; and
5. County owned and operated facilities.

9.020. Application

Application for a disposal site license shall be made on forms provided by the Administrator. In addition to information required on the forms, the Administrator may require the filing of any additional information it deems necessary to insure compliance with this Ordinance. The forms shall provide for the application for a new disposal license or a transfer of license.

9.030. Requirements

1. An applicant for a disposal site license shall submit a valid Department of Environmental Quality Permit for the site or facility, or a duplicate of the information submitted to the Department of Environmental Quality for a disposal site under ORS 459 and applicable rules.
2. An applicant shall seek and obtain a Land Use Permit for the disposal site or facility. The Land Use Permit shall utilize the Morrow County Zoning Ordinance and applicable criteria.
3. Each applicant for a disposal site license shall supply a plan for rehabilitation and use of the disposal site after disposal has been terminated, and such use shall be a use permitted within the land use zone in which such land is located.
4. The applicant shall have available land, equipment, management, facilities and personnel to meet the standards established by ORS Chapter 459 and applicable rules, and have insurance equal to that required for a collection franchise, as described in Section 7.000 of this Ordinance.
5. The applicant for a disposal site license shall demonstrate to the satisfaction of the Court

that the applicant will provide a place for the deposit of recyclable material, if applicable.

6. The applicant shall have sufficient experience to ensure compliance with ORS Chapter 459 and this Ordinance. If the applicant does not have sufficient experience, the Court may either deny the application or require the applicant to submit a corporate surety bond which guarantees full and faithful performance by the applicant of the duties and obligations of a license holder under this Ordinance and guarantees compliance with all applicable laws, and which holds Morrow County harmless.
7. If the application is for a transfer of a disposal site contract, the applicant must submit, as part of the application, a letter from the current holder requesting the transfer.

9.040. Existing Disposal Site License Holders

Persons holding valid Department of Environmental Quality Disposal Site or valid Oregon Department of Agriculture permits for disposal sites in Morrow County on the effective date of this Ordinance, and who are without a County Contract or Order for a disposal site, and who have not been exempted under this Ordinance, shall file an application for a disposal site license within 60 days after the effective date of this Ordinance. Upon filing the application, such person shall continue to provide existing service until a final determination on the application is made by the County Court.

9.050. Application Review

7. Applications shall be reviewed by the Administrator, which shall make such investigation as he or she deems appropriate. The Administrator shall give written notice of any application to affected license holders and adjoining property owners. Upon the basis of the disposal site application, evidence submitted, and results of any investigation, the Administrator shall make a finding and recommendation on the qualifications of the applicant, whether additional service, land, equipment or facilities should be provided and what conditions of service should be imposed, including whether the site should be opened to the public and under what conditions, whether or not certain types of wastes, solid wastes or hazardous wastes should be excluded from the site or what types of wastes should be required to be accepted at the site and, whether the site complies with all rules and regulations adopted pursuant to this Ordinance and ORS Chapter 459;
8. Unless the time is extended by the Court for good cause, the Administrator shall make a recommendation on the disposal site application to the Court within 30 days after the application and any required supplemental information have been received;
9. The Court shall conduct a public hearing to consider an application within 30 days of the Administrator's recommendation. Notice shall be served on the applicant, adjoining property owners, and any affected right holder, and shall be published once in the newspapers generally circulated within the County, not more than twenty or fewer than seven days, preceding the hearing. The County Court:
 - A. May require additional investigation to be made or information to be submitted;
 - B. Shall, upon the basis of the application, any evidence or testimony submitted, and the Administrator's recommendation, make a finding on the qualifications of the applicant on whether additional area should be included; additional services should be provided; additional equipment, facilities, land or personnel should be provided; and whether conditions should be imposed on disposal or recycling; and
 - C. Shall, upon the basis of its findings, grant, deny, modify or attach appropriate conditions deemed necessary to carry out the purposes and policy of this

Ordinance to the applicant within 30 days from the date of receipt of the recommendation from the Administrator. The determination of the Court after conclusion of the public hearing shall be final. If the Court's Order rejects all or part of the application, the applicant may not submit another application for the same disposal site for a period of six months, unless the Court finds that the public interest requires reconsideration within a shorter period of time.

4. After the applicant has received an order granting a license for the solid waste disposal site, the applicant shall enter into a written contract and agreement with Morrow County which requires compliance with this Ordinance and any applicable provisions of ORS Chapters 459 and 459A. The agreement will be the controlling document wherein the County Court and the applicant agree upon the license review periods, (if any), terms and conditions, fees, additional fees, closure fees, and dedicated fees which are required as a condition of the license for a disposal site.

9.060. Responsibilities of License Holders

1. Holders shall furnish all service authorized and required by the license, the Department of Environmental Quality, this Ordinance and the agreement, at rates established by the Court for the term of the license;
2. A holder shall, where applicable, provide, maintain and use adequate equipment to handle and dispose of, or resource recover, solid waste; handle collected solid wastes in a good and capable manner; transport all liquids in a watertight, drip-proof container; and provide equipment that meets all applicable laws, codes, regulations and standards;
3. A disposal site license holder shall not discontinue required service without ninety (90) days written notice to the Court and to any collection franchise or license holders having use of the site. Court approval shall be obtained before such discontinuance unless the discontinuance is due to the decision of administrative, legislative and judicial agencies having jurisdiction;
4. A holder shall make the fee payments as provided promptly as they become due; and
5. The holder of a solid waste disposal license shall maintain a current and valid permit from the Oregon Department of Environmental Quality or the Oregon Department of Agriculture.

9.070. Transfer of Pledge for a Disposal License

1. A license shall not be sold, transferred or assigned to another person without prior written approval of the Court which shall not be unreasonably withheld.
2. A person desiring a license transfer shall submit an application to the Administrator on forms provided by the Administrator. The Administrator shall review the application and forward a recommendation to the County Court. The Court shall then hold a public hearing and vote to approve or deny the request.
3. The term of the transferred license shall continue for the same period as the original License.

SECTION 10.000. FEES

Fees and revenue collected pursuant to this Ordinance shall be expended for solid waste management related activities. These fees and revenues shall include, but not be limited to, revenue generated from any licensed solid waste site or facility such as the franchised solid

waste collectors, recycling licensees, transfer facilities, landfills, and other disposal sites. The budget from the monies shall include and establish amounts to be reserved for solid waste management activities including but not limited to: solid waste education, protecting the environment, providing financial stability, meeting contractual obligations, providing for future solid waste facilities, and addressing changes in legal requirements. The budget recommendations prepared by the Administrator shall be reviewed and be subject to approval through the County's annual budget process pursuant to Oregon's Local Budget Law and applicable County policies.

10.010. Application Fees

An application required by this Ordinance shall be accompanied by a filing fee in the amount as set forth by the County Court in the County Fee Ordinance. Said fees may be amended by County Court order after conducting a hearing thereon.

1. Payment. All fees shall be due and payable at the time the application or appeal is submitted. No application or appeal shall be accepted without the proper fee being paid.
2. If it is determined by the Administrator at the time of application or at any time during the application process, that staff time and departmental costs to process a specific application will be significantly greater than that of other typical applications, the Administrator may require an applicant to enter into a memorandum of agreement with the County which would establish a fee based upon actual staff time and departmental costs. If an applicant refuses to enter into a memorandum of agreement or there is failure to negotiate an acceptable fee, the applicant may appeal the Administrator's decision to the County Court for resolution. If the applicant and the County fail to reach an agreement, the application will not be processed.

10.020. Collection Franchise Fees

Collection franchise fees shall be paid to the County on a regular basis as required by the franchise agreement, accompanied by a sworn and verified statement as to the gross receipts for the previous calendar year. The Court may conduct an audit of the franchisee's books to determine the accuracy of the franchisee's statement of gross receipts.

10.030. Recycling License Fees

A recycling license holder shall pay an annual fee based on the County Fee Ordinance. The Court may waive this fee in order to promote reuse or recycling.

10.040. Disposal Site License Fees

A disposal site license holder shall pay regular fees based on tippage or other individual requirements of each license, as ordered by the Court and stipulated in the agreement. Fees the County Court may consider include, but are not limited to, dedicated road fees, tippage fees, or surcharges.

10.050. Finley Buttes Regional Landfill Closure Fund

The Closure Fund, established in Section 10 of the Agreement between Morrow County and Tidewater Barge Lines and guaranteed under the transfer of Finley Buttes Landfill Company to Waste Connections, Inc. allows, under Section 10.5, that when the Closure Fund exceeds \$1,000,000, the excess funds shall be utilized exclusively, in accordance with DEQ administrative rules, to reduce solid waste disposal rates of persons within the County or to enhance solid waste disposal facilities within the County.

10.060. Transfer Station Fees

The County operated transfer stations shall charge a fee for the deposit of solid waste at a County transfer station based on the County Fee Ordinance. Additionally, the caretakers of the

transfer station shall impose a penalty, also based on the County Fee Ordinance, upon each load or deposit which is brought to the transfer station and which is not covered and secured so as to prevent leakage, spillage or loss during transport.

All moneys collected at a County operated transfer station shall be deposited to the appropriate Solid Waste Transfer Station line items in the Morrow County General Fund.

SECTION 11.000. OVERSIGHT AND ENFORCEMENT

The Administrator, under the supervision of the County Court, shall be responsible for the oversight and enforcement of the Morrow County Solid Waste Management Ordinance.

11.010. Parties Bound

The term of a collection franchise, recycling, or disposal license shall be binding upon the franchisee or licensee, its heirs, executors, administrators, successors, and assigns.

11.020. Acceptance

Any franchise granted under this Ordinance shall be inoperative unless the franchisee files with the County the executed franchise agreement within sixty (60) days of the Court approval of the franchise. The franchise agreement shall constitute an irrevocable contract between the County and the franchisee, subject to termination only as provided under this Ordinance or in the franchise agreement.

11.030. Severability and Appeals

If any section, subsection, sentence, clause, or portion of this Ordinance is for any reason held invalid or declared unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and the holding shall not affect the constitutionality of the remaining portion hereof. Any appeal of an action by the County Court shall be made pursuant to ORS 34.010 - 34.100, writs of review, and shall be filed with the Morrow County Circuit Court.

11.040. Repeal of Ordinances

This Ordinance repeals all prior solid waste ordinances, specifically Ordinance Numbers MC-1-87 and MC-C-7-94 and MC-01-05.

11.050. Enforcement of Ordinance

The County may enforce the provisions of this Ordinance by administrative, civil, or criminal proceedings, or a combination thereof, as necessary to achieve compliance with this Ordinance.

Further violation of this Ordinance may be punishable as a Class A misdemeanor under the provisions of ORS 459.992 and/or in addition thereof, a civil fine of up to \$500 per day, for each day of violation under the provisions of ORS 459.995. The County may also enforce the provisions of the Ordinance with the use of a lien as provided for in Morrow County ordinance.

The owner, title holder, contract seller, or contract buyer of the land upon which a violation is occurring is equally responsible for the violation of this County Ordinance, as is the possessor of the land, user of the land, or the person which is taking the action, conduct, or omission which constitutes a violation of the Ordinance.

A franchise or license holder shall at all times be subject to applicable laws of the State of Oregon. A violation of State law, if found by the Court to be substantial and material to the policy of this Ordinance, may be deemed by the Court to be a breach of the franchise or license.

If a holder breaches any of the terms or payments required under the terms of this Ordinance and such default continues for a period of ten (10) calendar days after receipt of written notification sent by certified mail by the Administrator, then Morrow County may revoke the franchise or license and the holder shall cease any solid waste service.

The Court reserves the right to make further regulations as deemed necessary to protect the welfare of the public.

11.060. Amendments and Adoption

When it is determined by the County Court, whether or not as a result of a recommendation by the SWAC, that the Ordinance shall be amended, the amendment and adoption process will follow the process outlined in Chapter Nine, Adoption and Amendment Process in the Morrow County Solid Waste Management Plan.