

NOTICE OF CITY COUNCIL MEETING

The City Council of the City of King City will hold a Regular City Council Meeting at 7:00 p.m., Wednesday-December 5th, 2018 at the Crown Center, 16880 SW 126th Ave, King City, Oregon 97224

AGENDA	Action Item
REGULAR SESSION	
<i>Moment of Silence</i>	Time:
7:00 p.m. 1. CALL TO ORDER	
2. ROLL CALL	
3. PLEDGE OF ALLEGIANCE	M S A
4. APPROVAL OF MINUTES: June 20, 2018 November 14, 2018	M S A
7:05 p.m. 5. OPEN FORUM: We welcome public comment. At this time, the Council will be happy to receive your comment pertaining to items on the agenda (including, questions, suggestions, complaints and items for future agendas). Each person's time will be limited to three minutes.	
7:15 p.m. 6. UNFINISHED BUSINESS:	
7:25 p.m. 7. NEW BUSINESS:	M S A
7.1 Human Rights Proclamation	M S A
7.2 September 2018 Financial Summary	
7.3 Ordinance 2018-06 – Municipal Code Amendment – Section 8.16 & 8.20 Regarding Disposal Rates	M S A
7:45 p.m. 8. POLICE CHIEF'S REPORT	
7:50 p.m. 9. CITY MANAGER'S REPORT	
7:55 p.m. 10. MAYOR'S AND COUNCILOR'S REPORTS	
8:25 p.m. 11. ADJOURN	
DECEMBER 19, 2018 COUNCIL MEETING IS CANCELED	
NEXT COUNCIL MEETING JANUARY 16, 2019	
<p>The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Ronnie Smith, City Recorder, 503-639-4082.</p> <p>M=Motion; S=Second; A=Action/Vote</p>	
	Time:

**CITY OF KING CITY
CITY COUNCIL MEETING MINUTES**

Call to Order: A regular meeting of the King City – City Council was held at the King City Hall beginning at 7:00 p.m. on Wednesday, June 20, 2018. Mayor Gibson requested a moment of silence then proceeded to call the meeting to order at 7:01 p.m., followed by roll call and the Pledge of Allegiance

Roll Call: **The following City Council members were present:**

Mayor Ken Gibson
Councilor Jaimie Fender
Councilor John Boylston
Councilor Gretchen Buehner
Councilor Billie Reynolds
Councilor Smart Ocholi via Phone

Absent:

President Bob Olmstead

Staff present included:

City Manager (CM) Mike Weston
City Recorder Ronnie Smith

Agenda Item 4: **Approval of Minutes:** April 18, 2018

MOTION MADE BY COUNCILOR BUEHNER TO APPROVE THE MINUTES OF REGULAR SESSION April 18, 2018, SECONDED BY COUNCILOR RENOLDS.

VOICE VOTE: 4-AYES – 0-NEYS – 1 ABSTENTIONS– 0- RECUSED THE MOTION CARRIED 4-0.

Agenda Item 5: **Open Forum:**

Mayor Gibson opened public comment on any item on the agenda (including questions, suggestions, complaints, and items for future agenda) and stated each person's time would be limited to three minutes.

None.

Agenda Item 6: **Unfinished Business: None**

Agenda Item 7: **New Business:**

7.1 Consider Resolution R-2018-12 FY17-18 Transfer Budget

A short discussion was had over the transfer Budget. CM Weston mentioned that this was to align staffing and contractor for IT.

MOTION MADE BY COUNCILOR BUEHNER TO APPROVE RESOLUTION R-2018-12 FY17-18 TRANSFER BUDGET, SECONDED BY COUNCILOR BOYLSTON.

**VOICE VOTE: 6-AYES – 0-NEYS – 0 ABSTENTIONS– 0- RECUSED
THE MOTION CARRIED 6-0.**

7.2 Review and discuss League of Oregon Cities Policy Committees recommendation for the legislative agenda for 2019 session.

CM Weston introduced a letter from League of Oregon Cities asking for cities participation and input to help the LOC board focus legislative issues.

Council and Staff discussed several issues about 911 tax, Annexation Flexibility, Beer and cider Tax, and Mental Health.

Staff asked Council members to email their priority to the City Manager before July 10th, 2018.

Agenda Item 8: Police Chief's Report

No report.

Agenda Item 9: City Manager's Report

CM Weston had no report at this meeting.

Agenda Item 10: Mayor and Councilor's Reports

- Councilor Fender reported that she attended the CDBG meeting last week she mentioned that there is a lot of great projects and one of the projects asked for a resubmittal of funds.
- The Council also talked about the July 4th parade, and Councilors Reynolds and Olmstead confirmed that they would be the Grand Marshals.
- Councilor Reynolds – No Report
- Councilor Boylston – No Report.
- Councilor Ocholi – attended the Intergovernmental Water Board meeting nothing to report.
- Councilor Buehner – Reported on the Urban Growth Management dates.
- Mayor Gibson – mentioned that the city would remain neutral on the metro housing bond.

Agenda Item 12: Adjournment

COUNCILOR BUEHNER MOVED TO ADJOURN THE MEETING, COUNCILOR FENDER SECONDED, THE MEETING ADJOURNED AT 9:24 P.M

Respectfully Submitted by:

Attested by:

Ronnie Smith
City Recorder

Mike Weston
City Manager

**CITY OF KING CITY
CITY COUNCIL MEETING MINUTES**

Call to Order: A regular meeting of the King City – City Council was held at the King City Hall beginning at 7:00 p.m. on Wednesday, November 14th, 2018. Mayor Gibson requested a moment of silence then proceeded to call the meeting to order at 7:01 p.m., followed by roll call and the Pledge of Allegiance

Roll Call: **The following City Council members were present:**

Mayor Ken Gibson
President Bob Olmstead
Councilor Jaimie Fender
Councilor John Boylston
Councilor Smart Ocholi

Absent:

Councilor Gretchen Buehner
Councilor Billie Reynolds

Staff present included:

City Manager (CM) Mike Weston
Chief of Police (CP) Ernie Happala

Agenda Item 4: **Approval of Minutes:** none

Agenda Item 5: **Open Forum:**

Mayor Gibson opened public comment on any item on the agenda (including questions, suggestions, complaints, and items for future agenda) and stated each person's time would be limited to three minutes.

None.

Agenda Item 6: **Unfinished Business: None**

Agenda Item 7: **New Business:**

7.1 TVF&R State of the District Presentation

Division Chief Kenny Frentress introduced his colleagues. He continued with the presentation. He also mentioned that TVF&R sent a few firefighters to California.

The city of King City has had 512 EMS calls.

Newberg and surrounding rural area joined TVF&R as of July 1.

TVF&R just opened Rosemont Station 55. He also mentioned the process that goes into siting for fire stations.

They invested in new hoses and handles. TVF&R also implemented new fire-attack techniques.

Levy renewal request will appear on may 2019 ballot. It will be the same rate of 45 cents per \$1,000 of the assessed value tax rate.

7.2 Washington County Sheriffs – County Wide Services Presentations

Jeff, Under-Sheriff spoke about the department mission and the importance for community safety and building community trust.

Jeff also spoke about public safety programmes MHRT, Records Department and the jail.

Mayor Gibson asked if he noticed an increase of homelessness pertaining to the jail in Washington County. Jeff responded by saying he has seen more of a rise in homelessness but also mentioned that some inmates do want to give that information.

President Olmstead asked how the Family Justice Center is doing. Jeff responded by saying that the program is doing great. He also mentioned that Washington County does have shelters for the ones that need it.

A request for a break was called.

7.3 R-2018-13 Supplemental Budget FY 2018-2019

CM Weston introduced the supplemental Budget FY 2018-2019. He mentions the opening balance was positive.

**MOTION MADE BY COUNCILOR FENDER TO APPROVE
RESOLUTION R-2018-13 SUPPLEMENTAL BUDGET FY 2018-2019,
SECONDED BY COUNCILOR BOYLSTON.**

**VOICE VOTE: 4-AYES – 0-NEYS – 1 ABSTENTIONS– 0- RECUSED
THE MOTION CARRIED 4-0.**

Agenda Item 8: Police Chief's Report

One hundred five pounds was dropped off for the National Drug take back day in August.

CP mentioned that he and Brian Siglar are working on getting credit for an evidence program.

Agenda Item 9: City Manager's Report

CM Weston mentioned several upcoming dates:

December 5th at 930 am – Planning commission meeting of 131st and Fischer road.

December 6th – Metro Public Hearing on the URA

December 13th – Metro Decision on the URA

He also informed the Council that Ronnie Smith would be going to a GIS training/conference in Washington DC in January 2019.

CM Weston attended the TVF&R 24-hour session and reported that it was very enlightening.

Agenda Item 10: Mayor and Councilor's Reports

- Councilor Fender reported that there is no CDBG meeting this month. She also mentioned she would attend the CPO 4 meeting. The Halloween event was great.
- President Bob Olmstead – won't be able to make the November 29 at 1:30 pm meeting.
- Councilor Reynolds – No Report
- Councilor Boylston – will not be attending the City's Christmas party this year.
- Councilor Ocholi – no report
- Councilor Buehner – Reported on the Urban Growth Management dates.
- Mayor Gibson – reported that he had a WCCC meeting and one of the topics was about autonomist vehicles.

CM Weston and Council members discussed the December meetings.

The December 5th meeting will be a special session and will be the last one for 2018. The December 19th meeting will be canceled.

At the first meeting in January 2019, we will swear in the newly elected officials.

February 2019 we will set a goal-setting session.

Agenda Item 12: Adjournment

PRESIDENT OLMSTEAD MOVED TO ADJOURN THE MEETING, COUNCILOR FENDER SECONDED, THE MEETING ADJOURNED AT 8:46 P.M

Respectfully Submitted by:

Attested by:

Ronnie Smith
City Recorder

Mike Weston
City Manager



HUMAN RIGHTS PROCLAMATION

WHEREAS, on December 10, 1948, the member States of the United Nations signed the Universal Declaration of Human Rights and countries of different political, economic and social systems unanimously agreed on the fundamental rights that all people share solely on the basis of their common humanity; and

WHEREAS, the Universal Declaration asserts that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace; and

WHEREAS, disregard and contempt for human rights have resulted in acts which have outraged the conscience of humankind, and

WHEREAS, a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people; and

WHEREAS, the Universal Declaration is referred to as the authoritative definition of human rights standards and increasingly referred to as customary international law, which all countries must abide; and

WHEREAS, the primary responsibility to promote respect for these rights and freedoms lies with each individual and each of us can play a major role in enhancing human rights; and

WHEREAS, the people of King City reaffirm their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life;

NOW, THEREFORE, We, the City Council of King City, Oregon do hereby proclaim December 10, 2018 as HUMAN RIGHTS DAY and challenge our residents to study and promote the ideas contained in Universal Declaration of Human Rights, to the end that freedom, justice, and equality shall not perish but will flourish and be made available to all.



Mayor Ken Gibson

Attest:

Ronnie Smith – City Recorder



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CITY OF KING CITY

SUMMARY

GENERAL FUND

AS OF 09/30/2018

	Accrual Basis	Accrual Basis	Year to Date	% of Budget
Revenues	Adopted Budget	Current September		25.00%
OPENING BALANCE Assets Net				
OPENING BALANCE Assets Net		\$ (2,125.70)	\$ 198,850.80	
OPENING BALANCE Assets Net		\$ (2,804.10)	\$ 72,344.45	
OPENING BALANCE Operating	\$ 1,300,000.00	\$ -	\$ 1,448,773.44	111.44%
INTEREST				
Interest	\$ 20,000.00	\$ 2,285.28	\$ 7,310.18	36.55%
REVENUES			\$ -	
Property Tax	\$ 760,000.00	\$ 14,904.81	\$ 19,638.34	2.58%
Other Taxes	\$ 226,800.00	\$ 17,993.59	\$ 31,375.60	13.83%
Total Grants	\$ 13,295.00	\$ -	\$ 12,000.00	90.26%
Fees - License	\$ 20,000.00	\$ 735.00	\$ 8,900.25	44.50%
Fees - Franchise	\$ 240,000.00	\$ 17,070.00	\$ 17,070.00	7.11%
Fees - Passports	\$ 55,000.00	\$ 4,690.00	\$ 20,910.25	38.02%
Fees - Building Permits	\$ 125,000.00	\$ 3,317.49	\$ 26,815.24	21.45%
Fees - New Development Review	\$ 14,000.00	\$ -	\$ 378.00	
Fees - Building Permits Taxes	\$ 158,000.00	\$ -	\$ 20,688.23	13.09%
Fees - Annexation	\$ -			
Proceeds - Court	\$ 80,000.00	\$ 9,524.56	\$ 26,974.48	33.72%
Proceeds - Court Fine Delinquent		\$ (6.46)	\$ (11.95)	
Revenue - Water	\$ 65,000.00		\$ -	0.00%
Miscellaneous	\$ 1,000.00	\$ -	\$ -	0.00%
Total Transfer In	\$ 445,544.00	\$ 37,128.65	\$ 111,386.15	25.00%
CURRENT REVENUES	\$ 2,223,639.00	\$ 107,642.92	\$ 303,434.77	13.65%
TOTAL REVENUES	\$ 3,523,639.00	\$ 107,642.92	\$ 1,752,208.21	49.73%

Expenditures

	Accrual Basis	Accrual Basis	Year to Date	% of Budget
	Adopted Budget	Current September		25.00%
CITY COUNCIL	\$ 73,660.00	\$ 2,677.75	\$ 6,707.46	9.11%
CITY MANAGER	\$ 208,969.00	\$ 26,853.45	\$ 58,089.57	27.80%
PLANNING & FINANCE	\$ 533,668.00	\$ 44,701.06	\$ 102,878.33	19.28%
PUBLIC INFORMATION	\$ 6,000.00	\$ 233.33	\$ 849.99	14.17%
POLICE MUNICIPAL COURT	\$ 96,425.00	\$ 5,122.22	\$ 15,793.25	16.38%
BUILDING DEPARTMENT	\$ 339,591.00	\$ 19,986.08	\$ 22,424.71	6.60%
POLICE ADMINISTRATION	\$ 91,047.00	\$ 7,141.40	\$ 20,024.28	21.99%
POLICE OPERATION	\$ 867,983.00	\$ 65,317.10	\$ 185,577.56	21.38%
GENERAL SERVICES - TRF & CONT	\$ 1,206,296.00	\$ -	\$ -	0.00%
GENERAL SERVICES - DEBT SERVICE	\$ 100,000.00	\$ -	\$ -	0.00%
TOTAL EXPENDITURES	\$ 3,523,639.00	\$ 172,032.39	\$ 412,345.15	11.70%
Account's Receivable - Collection/Fines			(\$145,157.43)	
ENDING FUND BALANCE	\$ -	\$ (64,389.47)	\$ 1,194,705.63	

***Ending balance is negative due to total revenue less than total expenditure this month

CITY OF KING CITY

SUMMARY

STREET FUND

AS OF 09/30/2018

Revenues	Accrual Basis Adopted Budget	Accrual Basis Current September	Year to Date	% of Budget 25.00%
OPENING BALANCE Assets Net		\$ (2,380.30)	\$ 12,907,814.85	
OPENING BALANCE Operating	\$ 200,000.00	\$ -	\$ 129,500.72	64.75%
INTEREST				
Interest	\$ 5,500.00	\$ 232.55	\$ 711.56	12.94%
REVENUES				
Total Taxes	\$ 246,000.00	\$ 25,767.77	\$ 44,901.14	18.25%
Total Grants	\$ 50,000.00	\$ -	\$ -	
FEES - CWS/SWM	\$ 54,000.00	\$ -	\$ -	0.00%
Miscellaneous	\$ 500.00		\$ -	
TRANSFERS IN				
Trf: General Fund	\$ -	\$ -	\$ -	
CURRENT REVENUES	\$ 356,000.00	\$ 26,000.32	\$ 45,612.70	12.81%
TOTAL REVENUES	\$ 556,000.00	\$ 26,000.32	\$ 175,113.42	31.50%
Expenditures				
	Accrual Basis Adopted Budget	Accrual Basis Current September	Year to Date	% of Budget 25.00%
Roadway/Signs/Markings/Lighting	\$ 22,080.00	\$ 90.00	\$ 270.00	1.22%
Street Operation	\$ 197,920.00	\$ 11,382.41	\$ 32,820.85	16.58%
capital Improvements	\$ 336,000.00	\$ -	\$ -	0.00%
TOTAL EXPENDITURES	\$ 556,000.00	\$ 11,472.41	\$ 33,090.85	5.95%
ENDING FUND BALANCE	\$ -	\$ 14,527.91	\$ 142,022.57	

CITY OF KING CITY

SUMMARY

LOCAL OPTION FUND

AS OF 09/30/2018

	Accrual Basis	Accrual Basis	Year to Date	% of Budget
	Adopted Budget	Current September		
Revenues				25.00%
OPENING BALANCE Assets Net		\$ -	\$ -	
INTEREST				
Interest	\$ 500.00	\$ (66.75)	\$ (104.61)	-20.92%
REVENUES				
Tax -Property	\$ 275,000.00		\$ -	0.00%
Tax -Property Delinquent	\$ 3,000.00	\$ 5,371.64	\$ 7,077.58	235.92%
TRANSFERS IN				
Trf: General Fund	\$ -	\$ -	\$ -	
CURRENT REVENUES	\$ 278,500.00	\$ 5,304.89	\$ 6,972.97	2.50%
TOTAL REVENUES	\$ 278,500.00	\$ 5,304.89	\$ 6,972.97	2.50%
Expenditures				
	Accrual Basis	Accrual Basis	Year to Date	% of Budget
	Adopted Budget	Current September		
				25.00%
Transfers Out	\$ 278,500.00	\$ 23,208.33	\$ 69,625.03	25.00%
TOTAL EXPENDITURES	\$ 278,500.00	\$ 23,208.33	\$ 69,625.03	25.00%
ENDING FUND BALANCE	\$ -	\$ (17,903.44)	\$ (62,652.06)	

***Ending balance is negative due to the revenue from property tax less than transfer out
Anticipate revenue will be received starts in November

CITY OF KING CITY

SUMMARY

PARK SYSTEM DEVELOPMENT FUND

AS OF 09/30/2018

	Accrual Basis	Accrual Basis	Year to Date	% of Budget
	Adopted Budget	Current September		
Revenues				25.00%
OPENING BALANCE Assets Net	\$ 440,000.00	\$ -	\$ 445,964.08	101.36%
INTEREST				
Interest	\$ 3,000.00	\$ 837.13	\$ 2,540.37	84.68%
REVENUES				
System Development Charges	\$ 105,000.00	\$ -	\$ 22,365.00	21.30%
METRO	\$ -	\$ -	\$ -	
TRANSFERS IN				
Trf: General Fund	\$ -	\$ -	\$ -	
CURRENT REVENUES	\$ 108,000.00	\$ 837.13	\$ 24,905.37	23.06%
TOTAL REVENUES	\$ 548,000.00	\$ 837.13	\$ 470,869.45	85.93%
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Expenditures				
	Accrual Basis	Accrual Basis	Year to Date	% of Budget
	Adopted Budget	Current September		
				25.00%
Transfers Out	\$ 50,000.00	\$ 4,166.66	\$ 12,500.06	25.00%
Park Improvements	\$ 100,000.00	\$ -	\$ 2,739.60	
Contingency	\$ 100,000.00	\$ -	\$ -	
Reserved for Future Expenditure	\$ 298,000.00			
TOTAL EXPENDITURES	\$ 548,000.00	\$ 4,166.66	\$ 15,239.66	2.78%
ENDING FUND BALANCE	\$ -	\$ (3,329.53)	\$ 455,629.79	

***Ending balance is negative due to total revenue less than total expenditure this month

CITY OF KING CITY

SUMMARY

Transportation Development Tax Fund

AS OF 09/30/2018

	Accrual Basis	Accrual Basis	Year to Date	% of Budget
	Adopted Budget	Current September		
Revenues				25.00%
OPENING BALANCE Assets Net INTEREST	\$ 2,400,000.00	\$ -	\$ 2,457,077.92	102.38%
Interest - TDT	\$ 32,000.00	\$ 4,592.97	\$ 13,943.76	43.57%
REVENUES				
TDT	\$ 253,740.00	\$ -	\$ 59,702.00	23.53%
METRO	\$ -	\$ -	\$ -	
TRANSFERS IN				
Trf: General Fund	\$ -	\$ -	\$ -	
CURRENT REVENUES	\$ 285,740.00	\$ 4,592.97	\$ 73,645.76	25.77%
TOTAL REVENUES	\$ 2,685,740.00	\$ 4,592.97	\$ 2,530,723.68	94.23%
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Expenditures				
	Accrual Basis	Accrual Basis	Year to Date	% of Budget
	Adopted Budget	Current September		
Capital Outlay TDT				25.00%
Street Improvements -	\$ 500,000.00	\$ -	\$ -	0.00%
Transfers Out	\$ 48,000.00	\$ 4,000.00	\$ 12,000.00	25.00%
Contingency	\$ 100,000.00	\$ -	\$ -	0.00%
Reserved for Future Expenditure	\$ 2,037,740.00	\$ -	\$ -	
TOTAL EXPENDITURES	\$ 2,685,740.00	\$ 4,000.00	\$ 12,000.00	0.45%
ENDING FUND BALANCE	\$ -	\$ 592.97	\$ 2,518,723.68	



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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 5, 2018

Order ____ No.	Ordinance <u>X</u> No. 2018-06	Resolution ____ No.	Motion ____	Information ____
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SUBJECT: Ordinance No. 2018-06, Amending the King City Municipal Code sections 8.16 and 8.20 relating to the collection of solid waste and implementation of annual cost of living index.

**Contact Person (Preparer) for this Motion: Ronnie Smith, City Recorder
Peter Watts, City Attorney
Dept.: City Manager & Legal**

RECOMMENDATION:

Adopt a modified version of the proposed Ordinance No. 2018-06, An Ordinance Amending the King City Municipal Code sections 8.16 and 8.20 relating to the collection of solid waste and implementation of annual cost of living index.

Modification Recommended: Ordinance Section 8.16.09§4(c), "If the rate of return exceeds 12% in any given calendar year, then no CPI increase shall be applied the following year, while a rate study is either deemed necessary or underway."

EXECUTIVE SUMMARY:

In May of 2018 Pride Disposal approached the City Council to consider an annual rate increase in accordance with increased costs associated with business activities. Historically, Pride Disposal has approached the council for such requests on an annual or biennial basis, and only when operation costs exceeded expectations and reduced the agreed upon rate of return in the City's Franchise agreement with Pride Disposal. Over the past year we have seen recycling cost increase nearly 100% over their rates from last year. Despite the unforeseen increases in recycling rates Pride Disposal has done a good job maintaining rates and services and only recently modified city services to keep rates low. The proposed amendments are minor in nature and are only enacted should the rate of return dip below the agreed upon rate in the franchise agreement; additionally should the rate of return in any given year exceed the 12% return then the applicant is suggesting the City conduct a rate study to recommend new rates. **As an amendment to the proposed ordinance section 8.16.09§4(c), Staff would recommend that in the case that rates exceed 12% return in any given calendar year, then no CPI increase shall applied the following year, while a rate study is either deemed necessary or underway.

FISCAL IMPACT:

STRATEGIC ASSESSMENT:

File can be found at:

Chapter 8.16 SOLID WASTE DISPOSAL

Sections:

- 8.16.010 Purpose of chapter.**
- 8.16.020 Definitions.**
- 8.16.030 Franchise required for collection.**
- 8.16.040 Collection equipment requirements.**
- 8.16.050 Disposal sites.**
- 8.16.060 Collection schedules.**
- 8.16.080 Collector—Seasonal pickups.**
- 8.16.090 Collection rates.**
- 8.16.100 Insurance or bond in lieu of fee.**
- 8.16.110 Collection area—Containers.**
- 8.16.120 Ownership of solid waste.**
- 8.16.130 Collector—Recycling.**
- 8.16.140 Council duties—Contracts.**
- 8.16.150 Council—Additional duties.**
- 8.16.160 Violation—Penalty.**
- 8.16.170 Franchise fee.**

8.16.010 Purpose of chapter.

The council finds that it is a governmental obligation to provide for the safe, efficient and dependable collection and removal of solid waste within the city to protect the health, peace and safety of the inhabitants of the city from disease and reduction in property values that could occur from accumulated unremoved solid waste. The council further finds that it is a proper and necessary exercise of its police powers to adopt and enforce a solid waste management program to:

- A. Insure safe accumulation, storage, collection, transportation, disposal or resource recovery of solid waste;
- B. Insure maintenance of a financially stable, reliable solid waste collection and disposal service;
- C. Insure rates that are just, fair, reasonable and adequate to provide necessary service to the public;
- D. Prohibit rate preference and other discriminatory practices which benefit one user at the expense of other users of the service or the general public;
- E. Conserve energy and material resources;
- F. Eliminate overlapping service to reduce truck traffic, street wear, air pollution and noise;
- G. Provide standards for solid waste service and public responsibilities; and
- H. Provide to each resident and inhabitant the opportunity to recycle recyclable materials generated within the city. (Ord. O-89-3 § 1, 1988)

8.16.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

“Collector” means the franchisee under this chapter.

“Compensation” means and includes:

1. Any type of consideration paid for services including, without limitation, rent, lease payments, and any other direct or indirect provision for the payment of money, goods, services or benefits by owners, tenants, lessees, occupants or similar persons;
2. The exchange of services between persons; and

3. The flow of consideration from the person owning or possessing the solid waste to the person providing the service or from the person providing the service to the person owning or possessing the solid waste.

“Council” means the city council of the city.

“Franchise” means the right to provide service granted to a person pursuant to this chapter.

“Person” means any individual, partnership, association, corporation, trust, firm, estate, joint venture, or other public or private legal entity.

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

“Recyclable materials” mean solid waste that can be recycled or reused.

“Recycling” means any process by which solid waste materials are transformed into new products in such a manner that the original products lose their identity.

“Resource recovery” means the process of obtaining useful material or energy resources from solid waste and including energy recover, materials recovery, recycling and reuse of or from solid waste.

“Reuse” means the return of a commodity into the economic stream for use in the same kind of application as before without a change in its identity.

“Service” means the collection, storage, transportation, transfer or disposal of, or resource recovery from, solid waste.

“Solid waste” means all wastes, in solid or liquid form, including but not limited to, garbage, rubbish, ashes, street refuse, waste paper, corrugated and cardboard, commercial, industrial, demolition and construction wastes, swill, discarded vehicle parts, discarded home and industrial appliances, vegetable or animal solid and semisolid wastes, small dead animals, and other wastes. It does not include sewage, sewage sludge, or sewage hauled as an incidental part of a septic tank or cesspool cleaning service.

“Waste” means material that is no longer wanted by or usable by the source generator or producer of the material and which material is to be disposed of or to be resource recovered by another person, and includes both source separated material and nonsource separated material. (Ord. O-89-3 § 2, 1988)

8.16.030 Franchise required for collection.

Except as otherwise provided in this chapter, it is unlawful for any person to provide service, offer to provide service or advertise for the performance of service or to collect solid waste or recyclable materials in the city without having obtained a franchise from the city. Nothing in this chapter is to be construed to prevent any resident or household of the city from hauling his or her own solid waste or refuse and disposing of the same in a lawful manner; provided, however, that no resident or householder shall be permitted to haul solid waste for another person. (Ord. O-89-3 § 3, 1988)

8.16.040 Collection equipment requirements.

The collector shall use proper and suitable equipment for the hauling and transportation of solid waste. All equipment for handling solid waste, ashes, and rubbish shall be covered and all equipment for handling liquids shall be equipped with a metal body, watertight and drip-proof. All equipment shall be kept clean at all times. Sufficient equipment shall be kept on hand to promptly and adequately remove all solid waste subject to the terms of this chapter. Employees of the collector shall be attired in neat and proper uniforms. (Ord. O-89-3 § 4, 1988)

8.16.050 Disposal sites.

The collector shall secure, at his own expense, an approved location for the disposal of solid waste collected from the city, and the collector shall conform to all rules, regulations and requirements

of any public authority or agency having jurisdiction over any such disposal site or sites. (Ord. O-89-3 § 5, 1988)

8.16.060 Collection schedules.

The collector shall provide collections of solid waste at least weekly in all residential districts of the city. The collector may provide collection services on legal holidays and Sundays, however, Sunday service shall be limited to emergency pickup of a commercial account in response to a request made by a commercial customer. No residential collection shall be made before 6am or after 7pm. The collector shall perform his obligations under this chapter under the supervision and to the satisfaction of the city manager in compliance with all sanitary regulations of the city and of the state. (Ord. O-89-3 § 6, 1988)

8.16.080 Collector—Yard Debris service.

The collector shall provide an optional every other week yard debris collection service in all residential districts of the city including providing a yard debris cart to each customer who chooses yard debris service to place on the curb on collection day. The rates for this service shall be established pursuant to Section 8.16.090 of this chapter. (Ord. O-05-06 § 1, 2005; Ord. O-89-3 § 8, 1988)

8.16.090 Collection rates.

A. The rates to be charged to all persons, firms or corporations by the collector shall be reasonable and uniform, taking into consideration the service rendered, and shall be in substantial compliance with and not in excess of those rates adopted by resolution of the council.

B. The collector shall provide pro rata billing to those customers requesting temporary suspension of service. The collector shall suspend service when notified via a telephone call or a written request no less than ten days before the designated pickup date on which suspension is to begin. The suspension of service must be for a period of time involving no less than two successive pickup dates. Notice requesting suspension of service must include the date on which service is to be resumed.

C. Nothing in this section shall be construed to limit, modify or preclude the right on the part of the city to amend this chapter to regulate or provide other or different rates or prescribe additional classifications and charges, provided that rate changes or classifications shall not become effective except thirty days after enactment and shall be reasonable in consideration of service required to be rendered by the collector to the public.

D. Unless a governmental unit or legislative body has raised or lowered the cost of providing service or there is a substantial increase in the cost of doing business that was not provided for in the previous rate adjustment, rate adjustments shall be made annually on the following schedule:

1. On or before March 15th, the collector shall file an annual report with the city manager for the year ended the previous December 31st.

2. The city manager shall report to the council by April 15th on the franchise reports and propose rate adjustments, if any. The city manager may make such recommendations as appropriate to the rate determination. A copy shall be delivered to the collector.

3. Unless there is good cause shown and recorded in the minutes of the council, if a rate adjustment is proposed, the council shall set a hearing on the proposed rate adjustment within sixty days of receiving the report from the city manager and shall either approve or disapprove the proposed rate adjustment within thirty days of said hearing.

4. The rate adjustment proposed by the city manager under subsection 2 above shall be based on the following:

a. if the rate of return of the collector is less than eight percent, then the city will undertake a rate study to recommend new rates. The study will be designed to recommend new rates that will be effective on the immediately following January 1 and intended to produce a

rate of return of ten percent for the calendar year beginning on that date. The study will also determine the projected rate of return for the collector during the current calendar year, and that information shall be reported to the collector. So long as the projected rate of return for that current calendar year is within two percent more or less than the targeted rate of return, no rate study will be needed based on that calendar year's report.

b. If the rate of the return of the collector is between eight and twelve percent, the proposed rate adjustment will be effective on the immediately following January 1 and will be indexed to the US Department of Labor, Bureau of Labor Statistics CPI-U Over-the-Year Percent Change Annual Average for Portland-Salem (the "index"). If the rate of return is between eight to nine percent, then the proposed rate adjustment will be 1.25 times the index. If the rate of return is between nine to eleven percent, then the proposed rate adjustment will be equal to the index. If the rate of return is between eleven to twelve percent, then the proposed rate adjustment will be .75 times the index.

c. If the rate of return of the collector is more than twelve percent, the collector and the city may, based upon mutual agreement, implement one or more of the following:

1. The city may undertake a rate study to recommend new rates. The study would be designed to recommend new rates that will be effective on the immediately following January 1 and intended to produce a rate of return of ten percent for the calendar year beginning on that date. The study would also determine the projected rate of return for the collector during the current calendar year, and that information shall be reported to the collector. So long as the projected rate of return for that current calendar year is within two percent more or less than the targeted rate of return, no rate study would be needed based on that calendar year's report.

2. The collector may increase current services provided to city customers.

3. The collector may add to the services provided to city customers.

5. Cost of services studies will be conducted at a minimum of every six years. (Ord. O-05-06 § 2, 2005; Ord. O-95-4 § 1, 1995; Ord. O-89-3 § 9, 1988)

8.16.100 Insurance or bond in lieu of fee.

A. The collector shall pay, save harmless and indemnify the city from any loss, damages, costs, penalties, expenses, liabilities, or charges of any kind arising out of or related to the city's enforcement or defense of proceedings relating to the privileges and obligations granted by this chapter. If an action shall be filed against the city, either independently or jointly with the collector, to recover for any claim or jointly with the collector, to recover for any claim or damages relating to the privileges and obligations granted by this chapter, the collector upon notice to it by the city shall defend the city against the action and in the event of a final judgment being obtained against the city, either independently or jointly with the collector, the collector will pay the judgment and all costs and reasonable attorney fees and hold the city harmless therefrom.

B. The collector shall, concurrently with his acceptance of the franchise, file with the city recorder and at all times thereafter maintain in full force and effect for the term of the franchise or any renewal thereof, at the collector's sole expense, a corporate surety bond with a responsible company licensed to do business in the state in the amount of ten thousand dollars guaranteeing full and faithful performance by the collector under this chapter. The bond shall be subject to the review and approval of the city attorney. The collector shall annually furnish proof to the city recorder that the bond remains in effect.

C. The collector shall maintain insurance in such forms and with such companies as shall be approved by the city attorney, which shall cover the collector's business operation, including each vehicle operated by the collector. The insurance coverage shall include not less than one hundred

thousand dollars for one person nor less than three hundred thousand dollars for bodily injury due to each occurrence and not less than three hundred thousand dollars for damage to property due to each occurrence.

D. All such insurance coverage shall provide a thirty-day notice to the city recorder in the event of material alteration or cancellation of any coverage afforded in the policies prior to the date the material alteration or cancellation shall become effective. Copies of all policies required under this section shall be furnished to and filed with the city recorder not more than thirty days after the effective date of the franchise granted by this chapter. The provisions of this section, any bonds accepted to the city pursuant thereto and any damage recovered by the city under this chapter shall not be construed to excuse unfaithful performance by the collector or limit the liability of the collector under this chapter or the collector for damages, either to the full amount of the bond, or otherwise. (Ord. O-91-9 § 1 (part), 1991; Ord. O-91- 7 § 1, 1991; Ord. O-89-3 § 10, 1988)

8.16.110 Collection area—Containers.

All solid waste collection and disposal shall be performed by the collector for properties located within the city unless otherwise provided by this chapter. The owner, contract purchaser, or person in control of any residential structure offered to others for rent, lease or occupation within the city shall provide through the collector for the collection and disposal of solid waste from any such structure. Collector will provide all equipment for customers. (Ord. O-93-3 § 1, 1993; Ord. 166-93.8.16 § 1, 1992; Ord. O-90-23 § 1, 1990; Ord. O-89-3 § 11, 1988)

8.16.120 Ownership of solid waste.

All solid waste located, placed or deposited in a cart, container, or drop box placed out by a customer for collection by the collector shall belong to the collector. It is unlawful for any person other than the collector to remove any solid waste from such receptacles. Any person removing such materials in violation of this section shall be subject to the penalties defined in Section 8.16.160 of this chapter. (Ord. O-89-3 § 12, 1988)

8.16.130 Collector—Recycling.

The collector shall provide on-route recycling subject to the following provisions:

A. The collector shall collect at least every other week source separated recyclable materials. The collector shall give notice to each person of the opportunity to recycle, encouraging source separation of recyclable materials.

B. In the event the council wishes to establish, modify or enlarge the collector's recycling program, the collector shall be given not less than thirty days notice of a hearing before the council on the matter and be given an opportunity to be heard and participate in the hearing.

C. If, after the hearing and on the basis of written findings, the council directs recycling be provided, modified or enlarged, the collector shall be given a reasonable opportunity to provide recycling or subcontract with other persons to provide it.

D. Nothing in this section shall prevent the collector from modifying or expanding on-route recycling prior to a council hearing and determination.

E. Nothing in this section shall prohibit a nonprofit, charitable, benevolent or civic organization from recycling materials which have not been set out for collection by the collector. (Ord. O-89-3 § 13, 1988)

8.16.140 Council duties—Contracts.

A. The council may suspend, modify, revoke or terminate the franchise granted under the provisions of this chapter after written notice and hearing upon finding that the collector has:

1. Willfully violated this chapter or ORS Chapter 459 or the rules and regulations promulgated thereunder; or

2. Willfully refused to provide adequate service after written notice and a reasonable opportunity to do so.

B. In any case where the city manager finds a serious danger to public health or safety, the city manager may suspend the franchise without a hearing but shall notify the collector of the reasons for the action and afford the collector the opportunity for a hearing before the council within fourteen days from the date of the suspension. In lieu of immediate suspension, modification or revocation of the franchise, the council may order compliance and make suspension, modification or revocation contingent upon compliance with the order within the time stated in the order.

C. The collector agrees as a condition of the franchise that whenever the city manager finds that the failure of service, threatened failure of service, or the need for a suspension of the franchise would result in creation or continuation of an immediate and serious health hazard or serious public nuisance, the council may, after a minimum of twenty-four hours actual notice to the collector and a public hearing if the collector requests it, provide or otherwise authorize another person to provide temporarily the service or provide emergency service. (Ord. O-89-3 § 14, 1988)

8.16.150 Council—Additional duties.

In addition to all other authority granted to or inherent in the council, the council may issue temporary restraining orders enjoining the alleged violation of any of the provisions of the franchise, this chapter or rules and regulations issued pursuant thereto which order shall direct the alleged violator to immediately cease and desist from an act or acts described in the order until the council determines whether or not a violation has occurred. Before issuing a temporary restraining order, the council must have reasonable grounds to believe that a violation has occurred. In no event shall the council make and issue such an order without first receiving a sworn affidavit containing allegations of the violation, which affidavit shall specify the alleged violation in short and concise language sufficient to apprise the alleged violator of the act or acts to be enjoined. The order shall direct the alleged violator to appear at the time and place stated in the order and show cause, if any, why the alleged violator should not be immediately enjoined from doing the act or acts specified in the order. If the council determines that the alleged violator has committed a violation of this chapter, the council may make and enter an order permanently enjoining further violation. (Ord. O-89-3 § 15, 1988)

8.16.160 Violation—Penalty.

A. Any person violating the provisions of this chapter shall be subject to a penalty not to exceed one thousand dollars. Each day a violation of this chapter continues shall be deemed a separate violation. In addition to the above penalties, any condition caused or permitted to exist in violation of this chapter shall be deemed to be a public nuisance and the city attorney may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such violation. Penalties and other remedies may be enforced pursuant to ORS 30.310, 30.315 and 30.410. The penalties and remedies provided in this chapter are not exclusive and are in addition to any penalties and remedies available to the city under any other ordinance or law.

B. In addition to any other remedy available to the city to enforce the provisions of this chapter, the city may impose a charge or fee, not to exceed one thousand dollars per day upon any person who, without complying with the provisions of this chapter, provides service or collects or hauls solid waste or recyclable materials over the streets and ways within the city. Collection of the fee may be enforced by civil proceedings pursuant to ORS 30.315. (Ord. O-89-3 § 16, 1988)

8.16.170 Franchise fee.

Effective July 1, 1991, as compensation for the franchise granted to the franchisee for use of the streets and ways within the corporate limits of the city, the franchisee shall pay to the city a fee equal to three percent of the gross receipts resulting from the solid waste services conducted under the franchise. The franchise fee shall be computed on a quarterly basis and paid within thirty days following the end of each quarterly calendar year. The franchisee shall maintain an adequate record of gross cash receipts resulting from the solid waste services conducted under the franchise. Records shall be open at all times for audit by authorized personnel designed by the city administrator. Willful misrepresentation of gross cash receipts by the franchisee shall constitute cause for revocation of this franchise pursuant to Section 8.16.140 of this chapter. The franchise fee shall be in lieu of any business license or regulatory fee or tax, but shall not be in lieu of any ad valorem tax, imposed by the city. (Ord. O-91-9 § 2, 1991: Ord. O-91-7 § 2, 1991: Ord. O-89-3 § 17, 1988)

Chapter 8.20 COMMERCIAL GARBAGE CONTAINERS

Sections:

8.20.010 Standards for approval.

8.20.020 Special conditions and enforcement.

8.20.030 Violation—Penalty.

8.20.010 Standards for approval.

A. All commercial garbage receptacles, and covered containers/drop boxes (one yard to forty yards) located within the residential and commercial zones shall be in an enclosed area on the property or at the building being served and shall be screened from public view unless otherwise specified in this chapter.

B. The height of the screening shall not exceed six feet.

C. The screen shall enclose the receptacle on all four sides, with one side being a gate, and shall be constructed to be compatible with materials and color of surrounding buildings.

D. Enclosures must be approved by the collector before construction to ensure access is acceptable.

E. Chain link fences with slats, wood, or brick or any combination will qualify as appropriate materials. Other commonly used materials may be approved by the planning commission.

F. Shrubbery and evergreens will not qualify alone for screening but may be included in addition to materials listed in subsection D of this section. (Ord. O-90-9 § 1, 1990; Ord. O-89-14 § 1, 1989)

8.20.020 Special conditions and enforcement.

A. The homeowner, or property owner, shall assume all responsibility for the safety and maintenance of the containers and screens. No additional garbage or refuse may be visible at any time.

B. No commercial sized container or enclosure, visible from the golf course, shall be located on property abutting the golf course.

(Ord. O-89-14 § 2 (A—D), 1989)

8.20.030 Violation—Penalty.

It is a violation not to comply with any of the provisions of this chapter. Each noncompliance will be considered a separate violation and each day that a violation exists shall constitute a separate violation. The penalty for each violation shall be a fine as required by the city's schedule of fees and penalties as approved through resolution of the city council. (Ord. O-94-1 § 19, 1994: Ord. O-90-9 § 2, 1990; Ord. O-89-14 § 2 (D), 1989)



October 1, 2018

Mike Weston, City Manager
City of King City
15300 SW 116th Ave
King City, OR 97224

Re: Request for code changes regarding solid waste rates

We are proposing modifications to sections 8.16 and 8.20 of the King City Municipal Code, related to solid waste. This proposed change would implement an annual cost of living index, similar to code language that exists in both City of Tigard and City of Sherwood. These proposed changes would provide transparency regarding rate setting. The changes would also provide annual incremental rate changes, if necessary, rather than infrequent and larger rate increases.

We originally brought these changes to council in May 2018. Per Council's direction, we made some changes to the language and addressed what would happen if the rate of return came in at over 12%.

There are a few other proposed changes to the code language, which are minor housekeeping changes to modify the code to match current practices.

The proposed changes are attached to this letter.

Thank you,

Kristin Leichner
Pride Disposal

Chapter 8.16 SOLID WASTE DISPOSAL

Sections:

- 8.16.010 Purpose of chapter.**
- 8.16.020 Definitions.**
- 8.16.030 Franchise required for collection.**
- 8.16.040 Collection equipment requirements.**
- 8.16.050 Disposal sites.**
- 8.16.060 Collection schedules.**
- 8.16.080 Collector—Seasonal pickups.**
- 8.16.090 Collection rates.**
- 8.16.100 Insurance or bond in lieu of fee.**
- 8.16.110 Collection area—Containers.**
- 8.16.120 Ownership of solid waste.**
- 8.16.130 Collector—Recycling.**
- 8.16.140 Council duties—Contracts.**
- 8.16.150 Council—Additional duties.**
- 8.16.160 Violation—Penalty.**
- 8.16.170 Franchise fee.**

8.16.010 Purpose of chapter.

The council finds that it is a governmental obligation to provide for the safe, efficient and dependable collection and removal of solid waste within the city to protect the health, peace and safety of the inhabitants of the city from disease and reduction in property values that could occur from accumulated unremoved solid waste. The council further finds that it is a proper and necessary exercise of its police powers to adopt and enforce a solid waste management program to:

- A. Insure safe accumulation, storage, collection, transportation, disposal or resource recovery of solid waste;
- B. Insure maintenance of a financially stable, reliable solid waste collection and disposal service;
- C. Insure rates that are just, fair, reasonable and adequate to provide necessary service to the public;
- D. Prohibit rate preference and other discriminatory practices which benefit one user at the expense of other users of the service or the general public;
- E. Conserve energy and material resources;
- F. Eliminate overlapping service to reduce truck traffic, street wear, air pollution and noise;
- G. Provide standards for solid waste service and public responsibilities; and
- H. Provide to each resident and inhabitant the opportunity to recycle recyclable materials generated within the city. (Ord. O-89-3 § 1, 1988)

8.16.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

“Collector” means the franchisee under this chapter.

“Compensation” means and includes:

- 1. Any type of consideration paid for services including, without limitation, rent, lease payments, and any other direct or indirect provision for the payment of money, goods, services or benefits by owners, tenants, lessees, occupants or similar persons;
- 2. The exchange of services between persons; and

3. The flow of consideration from the person owning or possessing the solid waste to the person providing the service or from the person providing the service to the person owning or possessing the solid waste.

“Council” means the city council of the city.

“Franchise” means the right to provide service granted to a person pursuant to this chapter.

“Person” means any individual, partnership, association, corporation, trust, firm, estate, joint venture, or other public or private legal entity.

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

“Recyclable materials” mean solid waste that can be recycled or reused.

“Recycling” means any process by which solid waste materials are transformed into new products in such a manner that the original products lose their identity.

“Resource recovery” means the process of obtaining useful material or energy resources from solid waste and including energy recover, materials recovery, recycling and reuse of or from solid waste.

“Reuse” means the return of a commodity into the economic stream for use in the same kind of application as before without a change in its identity.

“Service” means the collection, storage, transportation, transfer or disposal of, or resource recovery from, solid waste.

“Solid waste” means all wastes, in solid or liquid form, including but not limited to, garbage, rubbish, ashes, street refuse, waste paper, corrugated and cardboard, commercial, industrial, demolition and construction wastes, swill, discarded vehicle parts, discarded home and industrial appliances, vegetable or animal solid and semisolid wastes, small dead animals, and other wastes. It does not include sewage, sewage sludge, or sewage hauled as an incidental part of a septic tank or cesspool cleaning service.

“Waste” means material that is no longer wanted by or usable by the source generator or producer of the material and which material is to be disposed of or to be resource recovered by another person, and includes both source separated material and nonsource separated material. (Ord. O-89-3 § 2, 1988)

8.16.030 Franchise required for collection.

Except as otherwise provided in this chapter, it is unlawful for any person to provide service, offer to provide service or advertise for the performance of service or to collect solid waste or recyclable materials in the city without having obtained a franchise from the city. Nothing in this chapter is to be construed to prevent any resident or household of the city from hauling his or her own solid waste or refuse and disposing of the same in a lawful manner; provided, however, that no resident or householder shall be permitted to haul solid waste for another person. (Ord. O-89-3 § 3, 1988)

8.16.040 Collection equipment requirements.

The collector shall use proper and suitable equipment for the hauling and transportation of solid waste. All equipment for handling solid waste, ashes, and rubbish shall be covered and all equipment for handling liquids shall be equipped with a metal body, watertight and drip-proof. All equipment shall be kept clean at all times. Sufficient equipment shall be kept on hand to promptly and adequately remove all solid waste subject to the terms of this chapter. Employees of the collector shall be attired in neat and proper uniforms. (Ord. O-89-3 § 4, 1988)

8.16.050 Disposal sites.

The collector shall secure, at his own expense, an approved location for the disposal of solid waste collected from the city, and the collector shall conform to all rules, regulations and requirements

of any public authority or agency having jurisdiction over any such disposal site or sites. (Ord. O-89-3 § 5, 1988)

8.16.060 Collection schedules.

The collector shall provide collections of solid waste at least weekly in all residential districts of the city. The collector may provide collection services on legal holidays and Sundays, however, Sunday service shall be limited to emergency pickup of a commercial account in response to a request made by a commercial customer. No residential collection shall be made before 6am or after 7pm. The collector shall perform his obligations under this chapter under the supervision and to the satisfaction of the city manager in compliance with all sanitary regulations of the city and of the state. (Ord. O-89-3 § 6, 1988)

Deleted: at any hour when the collection would disturb the peace or sleep of the residents

8.16.080 Collector—Yard Debris service.

The collector shall provide an optional every other week yard debris collection service in all residential districts of the city including providing a yard debris cart to each customer who chooses yard debris service to place on the curb on collection day. The rates for this service shall be established pursuant to Section 8.16.090 of this chapter. (Ord. O-05-06 § 1, 2005; Ord. O-89-3 § 8, 1988)

Deleted: Seasonal pickups

Deleted: monthly

8.16.090 Collection rates.

A. The rates to be charged to all persons, firms or corporations by the collector shall be reasonable and uniform, taking into consideration the service rendered, and shall be in substantial compliance with and not in excess of those rates adopted by resolution of the council.

B. The collector shall provide pro rata billing to those customers requesting temporary suspension of service. The collector shall suspend service when notified via a telephone call or a written request no less than ten days before the designated pickup date on which suspension is to begin. The suspension of service must be for a period of time involving no less than two successive pickup dates. Notice requesting suspension of service must include the date on which service is to be resumed.

C. Nothing in this section shall be construed to limit, modify or preclude the right on the part of the city to amend this chapter to regulate or provide other or different rates or prescribe additional classifications and charges, provided that rate changes or classifications shall not become effective except thirty days after enactment and shall be reasonable in consideration of service required to be rendered by the collector to the public.

D. Unless a governmental unit or legislative body has raised or lowered the cost of providing service or there is a substantial increase in the cost of doing business that was not provided for in the previous rate adjustment, rate adjustments shall be made annually on the following schedule:

1. On or before March 15th, the collector shall file an annual report with the city manager for the year ended the previous December 31st.

2. The city manager shall report to the council by April 15th on the franchise reports and propose rate adjustments, if any. The city manager may make such recommendations as appropriate to the rate determination. A copy shall be delivered to the collector.

3. Unless there is good cause shown and recorded in the minutes of the council, if a rate adjustment is proposed, the council shall set a hearing on the proposed rate adjustment within sixty days of receiving the report from the city manager and shall either approve or disapprove the proposed rate adjustment within thirty days of said hearing.

4. The rate adjustment proposed by the city manager under subsection 2 above shall be based on the following:

a. if the rate of return of the collector is less than eight percent, then the city will undertake a rate study to recommend new rates. The study will be designed to recommend new rates that will be effective on the immediately following January 1 and intended to produce a

Deleted: The collector shall prepare an annual report by March 1st of each year. The collector may once a year request that the city amend this chapter to provide an adjustment of rates to reflect changes in the collector's costs. These annual requests shall be made during March of each year in which an adjustment is requested utilizing the annual report format prescribed by the city. The annual report shall provide an opportunity for the collector to document changes in the collector's costs of operation in rates at any other time if the collector's disposal costs increase by twenty-five percent or more over the existing disposal costs. Unless there is good cause shown and recorded in the minutes of the council, the council shall approve the request, and the adjustment shall take effect thirty days after the council's approval of the request.

rate of return of ten percent for the calendar year beginning on that date. The study will also determine the projected rate of return for the collector during the current calendar year, and that information shall be reported to the collector. So long as the projected rate of return for that current calendar year is within two percent more or less than the targeted rate of return, no rate study will be needed based on that calendar year's report.

b. If the rate of the return of the collector is between eight and twelve percent, the proposed rate adjustment will be effective on the immediately following January 1 and will be indexed to the US Department of Labor, Bureau of Labor Statistics CPI-U Over-the-Year Percent Change Annual Average for Portland-Salem (the "index"). If the rate of return is between eight to nine percent, then the proposed rate adjustment will be 1.25 times the index. If the rate of return is between nine to eleven percent, then the proposed rate adjustment will be equal to the index. If the rate of return is between eleven to twelve percent, then the proposed rate adjustment will be .75 times the index.

c. If the rate of return of the collector is more than twelve percent, the collector and the city may, based upon mutual agreement, implement one or more of the following:

1. The city may undertake a rate study to recommend new rates. The study would be designed to recommend new rates that will be effective on the immediately following January 1 and intended to produce a rate of return of ten percent for the calendar year beginning on that date. The study would also determine the projected rate of return for the collector during the current calendar year, and that information shall be reported to the collector. So long as the projected rate of return for that current calendar year is within two percent more or less than the targeted rate of return, no rate study would be needed based on that calendar year's report.

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5. Cost of services studies will be conducted at a minimum of every six years. (Ord. O-05-06 § 2, 2005; Ord. O-95-4 § 1, 1995; Ord. O-89-3 § 9, 1988)

8.16.100 Insurance or bond in lieu of fee.

A. The collector shall pay, save harmless and indemnify the city from any loss, damages, costs, penalties, expenses, liabilities, or charges of any kind arising out of or related to the city's enforcement or defense of proceedings relating to the privileges and obligations granted by this chapter. If an action shall be filed against the city, either independently or jointly with the collector, to recover for any claim or jointly with the collector, to recover for any claim or damages relating to the privileges and obligations granted by this chapter, the collector upon notice to it by the city shall defend the city against the action and in the event of a final judgment being obtained against the city, either independently or jointly with the collector, the collector will pay the judgment and all costs and reasonable attorney fees and hold the city harmless therefrom.

B. The collector shall, concurrently with his acceptance of the franchise, file with the city recorder and at all times thereafter maintain in full force and effect for the term of the franchise or any renewal thereof, at the collector's sole expense, a corporate surety bond with a responsible company licensed to do business in the state in the amount of ten thousand dollars guaranteeing full and faithful performance by the collector under this chapter. The bond shall be subject to the review and approval of the city attorney. The collector shall annually furnish proof to the city recorder that the bond remains in effect.

C. The collector shall maintain insurance in such forms and with such companies as shall be approved by the city attorney, which shall cover the collector's business operation, including each vehicle operated by the collector. The insurance coverage shall include not less than one hundred

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thousand dollars for one person nor less than three hundred thousand dollars for bodily injury due to each occurrence and not less than three hundred thousand dollars for damage to property due to each occurrence.

D. All such insurance coverage shall provide a thirty-day notice to the city recorder in the event of material alteration or cancellation of any coverage afforded in the policies prior to the date the material alteration or cancellation shall become effective. Copies of all policies required under this section shall be furnished to and filed with the city recorder not more than thirty days after the effective date of the franchise granted by this chapter. The provisions of this section, any bonds accepted to the city pursuant thereto and any damage recovered by the city under this chapter shall not be construed to excuse unfaithful performance by the collector or limit the liability of the collector under this chapter or the collector for damages, either to the full amount of the bond, or otherwise. (Ord. O-91-9 § 1 (part), 1991; Ord. O-91- 7 § 1, 1991; Ord. O-89-3 § 10, 1988)

8.16.110 Collection area—Containers.

All solid waste collection and disposal shall be performed by the collector for properties located within the city unless otherwise provided by this chapter. The owner, contract purchaser, or person in control of any residential structure offered to others for rent, lease or occupation within the city shall provide through the collector for the collection and disposal of solid waste from any such structure. Collector will provide all equipment for customers. (Ord. O-93-3 § 1, 1993; Ord. 166-93.8.16 § 1, 1992; Ord. O-90-23 § 1, 1990; Ord. O-89-3 § 11, 1988)

8.16.120 Ownership of solid waste.

All solid waste located, placed or deposited in a cart, container, or drop box, placed out by a customer for collection by the collector shall belong to the collector. It is unlawful for any person other than the collector to remove any solid waste from such receptacles. Any person removing such materials in violation of this section shall be subject to the penalties defined in Section 8.16.160 of this chapter. (Ord. O-89-3 § 12, 1988)

8.16.130 Collector—Recycling.

The collector shall provide on-route recycling subject to the following provisions:

A. The collector shall collect at least every other week source separated recyclable materials. The collector shall give notice to each person of the opportunity to recycle, encouraging source separation of recyclable materials.

B. In the event the council wishes to establish, modify or enlarge the collector's recycling program, the collector shall be given not less than thirty days notice of a hearing before the council on the matter and be given an opportunity to be heard and participate in the hearing.

C. If, after the hearing and on the basis of written findings, the council directs recycling be provided, modified or enlarged, the collector shall be given a reasonable opportunity to provide recycling or subcontract with other persons to provide it.

D. Nothing in this section shall prevent the collector from modifying or expanding on-route recycling prior to a council hearing and determination.

E. Nothing in this section shall prohibit a nonprofit, charitable, benevolent or civic organization from recycling materials which have not been set out for collection by the collector. (Ord. O-89-3 § 13, 1988)

8.16.140 Council duties—Contracts.

A. The council may suspend, modify, revoke or terminate the franchise granted under the provisions of this chapter after written notice and hearing upon finding that the collector has:

Deleted: Solid waste cans designed for manual pickup shall (1) have sides tapering outward to the opening at the top that provides for unobstructed dumping of the contents, (2) two handles on opposite sides, (3) a close fitting lid with a handle, (4) shall hold no more than thirtytwo gallons of material, and (5) shall not weigh more than sixty pounds. Solid waste cans shall be placed above ground by the owner for collection by the collector. The only exception to the size limitation stated in this section shall be cans provided by Pride Disposal Company for the use of customers consistent with the rate schedule. Sunken refuse cans or containers shall not be used, unless they are placed above ground by the owner for service

Deleted: can

Deleted: or receptacle provided by the collector to a customer or

Deleted: monthly

1. Willfully violated this chapter or ORS Chapter 459 or the rules and regulations promulgated thereunder; or

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2. Willfully refused to provide adequate service after written notice and a reasonable opportunity to do so.

Deleted: Wilfully

B. In any case where the city manager finds a serious danger to public health or safety, the city manager may suspend the franchise without a hearing but shall notify the collector of the reasons for the action and afford the collector the opportunity for a hearing before the council within fourteen days from the date of the suspension. In lieu of immediate suspension, modification or revocation of the franchise, the council may order compliance and make suspension, modification or revocation contingent upon compliance with the order within the time stated in the order.

C. The collector agrees as a condition of the franchise that whenever the city manager finds that the failure of service, threatened failure of service, or the need for a suspension of the franchise would result in creation or continuation of an immediate and serious health hazard or serious public nuisance, the council may, after a minimum of twenty-four hours actual notice to the collector and a public hearing if the collector requests it, provide or otherwise authorize another person to provide temporarily the service or provide emergency service. (Ord. O-89-3 § 14, 1988)

8.16.150 Council—Additional duties.

In addition to all other authority granted to or inherent in the council, the council may issue temporary restraining orders enjoining the alleged violation of any of the provisions of the franchise, this chapter or rules and regulations issued pursuant thereto which order shall direct the alleged violator to immediately cease and desist from an act or acts described in the order until the council determines whether or not a violation has occurred. Before issuing a temporary restraining order, the council must have reasonable grounds to believe that a violation has occurred. In no event shall the council make and issue such an order without first receiving a sworn affidavit containing allegations of the violation, which affidavit shall specify the alleged violation in short and concise language sufficient to apprise the alleged violator of the act or acts to be enjoined. The order shall direct the alleged violator to appear at the time and place stated in the order and show cause, if any, why the alleged violator should not be immediately enjoined from doing the act or acts specified in the order. If the council determines that the alleged violator has committed a violation of this chapter, the council may make and enter an order permanently enjoining further violation. (Ord. O-89-3 § 15, 1988)

8.16.160 Violation—Penalty.

A. Any person violating the provisions of this chapter shall be subject to a penalty not to exceed one thousand dollars. Each day a violation of this chapter continues shall be deemed a separate violation. In addition to the above penalties, any condition caused or permitted to exist in violation of this chapter shall be deemed to be a public nuisance and the city attorney may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such violation. Penalties and other remedies may be enforced pursuant to ORS 30.310, 30.315 and 30.410. The penalties and remedies provided in this chapter are not exclusive and are in addition to any penalties and remedies available to the city under any other ordinance or law.

B. In addition to any other remedy available to the city to enforce the provisions of this chapter, the city may impose a charge or fee, not to exceed one thousand dollars per day upon any person who, without complying with the provisions of this chapter, provides service or collects or hauls solid waste or recyclable materials over the streets and ways within the city. Collection of the fee may be enforced by civil proceedings pursuant to ORS 30.315. (Ord. O-89-3 § 16, 1988)

8.16.170 Franchise fee.

Effective July 1, 1991, as compensation for the franchise granted to the franchisee for use of the streets and ways within the corporate limits of the city, the franchisee shall pay to the city a fee equal to three percent of the gross receipts resulting from the solid waste services conducted under the franchise. The franchise fee shall be computed on a quarterly basis and paid within thirty days following the end of each quarterly calendar year. The franchisee shall maintain an adequate record of gross cash receipts resulting from the solid waste services conducted under the franchise. Records shall be open at all times for audit by authorized personnel designed by the city administrator. ~~Willful~~ misrepresentation of gross cash receipts by the franchisee shall constitute cause for revocation of this franchise pursuant to Section 8.16.140 of this chapter. The franchise fee shall be in lieu of any business license or regulatory fee or tax, but shall not be in lieu of any ad valorem tax, imposed by the city. (Ord. O-91-9 § 2, 1991; Ord. O-91-7 § 2, 1991; Ord. O-89-3 § 17, 1988)

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Chapter 8.20 COMMERCIAL GARBAGE CONTAINERS

Sections:

8.20.010 Standards for approval.

8.20.020 Special conditions and enforcement.

8.20.030 Violation—Penalty.

8.20.010 Standards for approval.

A. All commercial garbage receptacles, and covered containers/drop boxes (one yard to ~~forty~~ yards) located within the residential and commercial zones shall be in an enclosed area on the property or at the building being served and shall be screened from public view unless otherwise specified in this chapter.

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B. The height of the screening shall not exceed six feet.

C. The screen shall enclose the receptacle on all four sides, with one side being a gate, and shall be constructed to be compatible with materials and color of surrounding buildings.

~~D. Enclosures must be approved by the collector before construction to ensure access is acceptable.~~

Deleted: D

~~E. Chain link fences with slats, wood, or brick or any combination will qualify as appropriate materials. Other commonly used materials may be approved by the planning commission.~~

Deleted: E

~~F. Shrubbery and evergreens will not qualify alone for screening but may be included in addition to materials listed in subsection D of this section. (Ord. O-90-9 § 1, 1990; Ord. O-89-14 § 1, 1989)~~

Commented [KL2]: This practice has changed at the request of the City

8.20.020 Special conditions and enforcement.

A. The homeowner, or property owner, shall assume all responsibility for the safety and maintenance of the containers and screens. No additional garbage or refuse may be visible at any time.

B. No commercial sized container or enclosure, visible from the golf course, shall be located on property abutting the golf course.

~~↓ (Ord. O-89-14 § 2 (A—D), 1989)~~

Deleted: C. In order to place a rented commercial container temporarily on site, the property owner who proposes to rent a commercial container or drop box temporarily for construction, destruction project or for tree removal must notify the city manager to obtain permission to place the drop box on site for a limited period of time. The city manager shall determine if the placement of the container, length of use and maintenance of the facility, is appropriate. If the city manager approves the placement of the drop box/container, the property owner must agree to all conditions as specified by the city manager prior to placement of the container.

8.20.030 Violation—Penalty.

It is a violation not to comply with any of the provisions of this chapter. Each noncompliance will be considered a separate violation and each day that a violation exists shall constitute a separate violation. The penalty for each violation shall be a fine as required by the city's schedule of fees and penalties as approved through resolution of the city council. (Ord. O-94-1 § 19, 1994; Ord. O-90-9 § 2, 1990; Ord. O-89-14 § 2 (D), 1989)