

## EXHIBIT A

### Chapter 8.11

#### SOLID WASTE RECYCLING AND COLLECTION DISTRICT

Sections:

**8.11.010 District created – Determinations and findings.**

**8.11.020 Collection mandatory – Starting date.**

**8.11.030 Procedure to obtain exemption.**

**8.11.040 Enforcement – Civil penalty.**

**8.11.050 Governing body designated – Election.**

**8.11.060 Severability.**

**8.11.010 District created – Determinations and findings.**

The Whatcom County solid waste recycling and collection district (the "district") is hereby created to make solid waste and recycling collection mandatory in Whatcom County in furtherance of the objectives of the county's plan. The district is formed, in part, in light of the formation of a solid waste disposal district pursuant to RCW Chapter 36.58 and Chapter 8.13. The county council has determined that the unincorporated areas of the county cannot meet their solid waste management objectives, including recycling goals, without the formation of a collection district. The recycling and collection district shall include all unincorporated areas except the Diablo/Newhalem area of Whatcom County and shall be implemented compatibly with cities and towns which require mandatory collection within their limits, all as provided in interlocal agreements executed with the county. All municipalities in the county have executed interlocal agreements with the county as shown in Appendix A of the ordinance codified in this chapter, which appendix is incorporated herein by reference. The county council in forming the recycling and collection district determines and finds:

A. All residences and businesses within the county are beneficiaries of the county solid waste and recycling management program and receive substantial and essential public service by having available on a continuing and standby basis healthful, safe and reliable solid waste disposal facilities;

B. The county has experienced increasing health and safety problems due to improper handling of solid waste. These problems include but are not limited to air pollution, litter and possible groundwater contamination. Requiring that transportation and disposal of solid waste be

performed by qualified providers of collection service in compliance with the law and regulations is necessary for the immediate protection of the public health-and safety;

C. The state has set waste reduction and recycling as the highest priorities in managing solid waste streams. In order to develop workable programs of waste reduction and recycling, the county and municipalities need mandatory collection to make curbside collection and other source separation feasible;

D. The cost of operating Whatcom County's solid waste and recycling management program may be met in part by imposing an excise tax on the charges paid for solid waste collection by each residential dwelling and by each business or institution in the taxing district, as authorized by Chapter 8.13; and

E. Those who knowingly fail to comply with the requirements of this chapter shall be liable as provided below for a civil penalty and for related attorneys' fees and costs in order to reduce the environmental degradation and public health risks associated with noncompliance. (Ord. 90-96 § 1).

#### **8.11.020 Collection mandatory – Starting date.**

Solid waste and recycling collection shall become mandatory for owners of all developed property within the recycling and collection district on a date which the county executive has certified for implementation of the mandatory collection program. Such date shall be determined by the county executive after consultation with staff of the solid waste division, who shall have consulted with haulers, concerning the administrative feasibility of implementation. Such date shall occur on the first day of a month, and shall not be sooner than the first day of the month following the approval of the ordinance codified in this chapter, nor later than one year following such approval. (Ord. 90-96 § 2).

#### **8.11.030 Procedure to obtain exemption.**

A. At least 60 days prior to the date of implementation of mandatory solid waste and recycling collection, the solid waste division shall provide reasonable notice to all residences and businesses that mandatory collection will be implemented. Such notice shall state how requests for exemption may be filed. Such notice shall be issued in coordination with certificated haulers.

B. Any person who wishes an exemption from the provisions or application of this chapter may file an affidavit with the solid waste manager which states substantively as follows:

I swear or affirm that I should be exempt from the requirements of universal recycling and solid waste collection because I am disposing of my waste in

an environmentally sound way.

This affidavit is subject to periodic verification by the solid waste manager or his/her designee.

Effective January 1, 2019 requests for exemptions for single-family and multi-family residential dwellings located in Point Roberts will not be approved, and existing exemptions will terminate.

C. Within 30 days after implementation of mandatory collection, the solid waste manager shall provide a report to the county executive containing findings on the number of exemptions that have been requested, the grounds stated for such exemptions, and the actions taken on the requests. Within 60 days after implementation of mandatory collection, the county executive shall report the findings to the county council, together with any recommendations for further legislative action on exemptions which the county executive believes are appropriate. (Ord. 90-96 § 3).

**8.11.040 Enforcement – Civil penalty.**

A. If any residence, business, or institution, not otherwise exempt from mandatory collection, refuses to pay for such mandatory collection, the county may, upon the request of a certificated hauler, through the prosecuting attorney's office commence appropriate action to enforce the provisions of this chapter. The prevailing party shall be entitled to an award of reasonable attorney's fees and costs in any such action.

B. Any person who knowingly fails to subscribe to or pay for solid waste and recycling collection service without having obtained an exemption shall be liable in addition to actual damages, for a penalty to the county in an amount equal to any past due bill for solid waste and recycling collection service not to exceed \$500.00, plus an additional penalty of not less than \$100.00 nor more than \$200.00 which shall not be suspended or deferred. (Ord. 90-96 § 4).

**8.11.050 Governing body designated – Election.**

The Whatcom County council shall be the governing body of the recycling and collection district. The electors of said district shall be all registered voters residing within the district. (Ord. 90-96 § 5).

**8.11.060 Severability.**

The invalidity or unenforceability of any portion of this chapter shall not affect the other provisions thereof, and this chapter shall be construed in all respects as if such invalid or unenforceable provision were omitted. (Ord. 90-96 § 6).

## **EXHIBIT B**

### **Chapter 8.10**

#### **SOLID WASTE AND RESIDENTIAL RECYCLING COLLECTION<sup>1</sup>**

Sections:

- 8.10.010 Purpose.**
- 8.10.020 Findings.**
- 8.10.030 Definitions.**
- 8.10.040 Single-family residential garbage collection.**
- 8.10.050 Residential recycling collection.**
- 8.10.060 Nonresidential and multifamily garbage collection.**
- 8.10.070 Submittal of documents and notices.**
- 8.10.080 Notice to Utilities and Transportation Commission.**
- 8.10.090 Modification of collection schedules.**
- 8.10.100 Severability.**

**8.10.010 Purpose.**

A. Policies expressed in Whatcom County's 2008 Comprehensive Solid and Hazardous Waste Management Plan ("plan") make waste reduction and recycling the preferred methods of handling solid waste. The purpose of this chapter is to specify service levels and rate structures for recycling and solid waste collection that encourage recycling and waste reduction, that protect the public health and safety, and to ensure that, to the maximum extent practicable, only the remainder after separation should be incinerated or landfilled.

B. Certain service levels and rate structures for solid waste and recycling collection are hereby established in Whatcom County to further the objectives of the plan, including a high level of waste reduction and recycling; to ensure the provision of such solid waste collection and disposal systems and services as are in the public interest; and to secure a healthful environment for all citizens of Whatcom County. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

**8.10.020 Findings.**

The county council, in establishing service levels and rate structure principles, determines and finds:

A. Waste reduction and recycling measures contemplated by the plan promote the health, safety, and welfare of residents by encouraging the reuse of products and reducing the use of incineration and landfill facilities.

B. State and federal laws and regulations have increased the responsibility of local governments to manage solid waste systems in a manner that protects public health and safety.

C. The state and the county have set waste reduction and recycling as the highest priorities in managing solid waste. In order to make programs for waste reduction, curbside recycling and other source separation feasible, rate structures must make it cost-effective for residents and businesses who generate small amounts of waste to participate in such programs, and all nonresidential accounts must be offered the option of subscribing to recycling service.

D. It is the policy of the county that collected recyclable materials be processed locally whenever practicable and that they be utilized according to the following priorities: (1) reuse intact materials in their original form for their original purposes; (2) recycle materials back into their original form for their original purpose; (3) recycle materials for other uses and preserve the future ease of recyclability; and (4) reuse materials for single end uses that do not allow or that inhibit further recycling.

E. Adoption of the ordinance codified in this chapter is necessary for the protection of natural resources and the environment, the immediate preservation of the public health and welfare and the support of governmental activities. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

#### **8.10.030 Definitions.**

As used in this chapter:

A. "Carrier" means a common, contract or private carrier as defined by RCW 81.80.010.

B. "Certificated hauler" means solid waste collection companies.

C. "Executive committee" means the group of seven mayors and the county executive as established and governed by interlocal agreements between the county and cities in July 1989.

D. "Multifamily dwelling" means a residential dwelling containing five or more units on one lot or parcel, or single family residences participating in an approved homeowners association.

E. "Nonresidential account" means a building or facility that is not occupied as a permanent residence including, but not limited to, commercial and industrial businesses, schools, hospitals, government buildings, recreation facilities, and transportation facilities.

~~F. "On-call service" means garbage pickup service and drop-off recycling on other than regularly scheduled days, from a dwelling unit that is a seasonal vacation or weekend home. On-call garbage service does not include roadside recycling service and tends to be on a variable infrequent basis.~~

G. "Recyclables" and "recyclable materials" mean those solid wastes that are separated for recycling or reuse as identified in this chapter.

~~H. "Seasonal vacation or weekend home" is defined as a secondary residence used only for weekend or vacation use and not as a full-time or primary residence.~~

I. "Single-family residence" means a residential dwelling containing four or fewer dwelling units on one lot or parcel. Where two, three, or four units are on one lot or parcel, each unit shall be considered as an individual single-family residence.

J. "Solid waste" shall have the meaning given to it by RCW 70.95.030.

K. "Solid waste collection companies" means those entities defined by Chapter 81.77 RCW and certified by the UTC to operate in Whatcom County. Solid waste collection companies are Sanitary Services Company (UTC No. G-14); Nooksack Valley Disposal, Inc. (UTC No. G-166); Waste Management of Washington, Inc. (No. G-237); and Freedom 2000 LLC, dba Cando Recycling and Disposal (UTC G063819). (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

#### **8.10.040 Single-family residential garbage collection.**

A. Solid waste collection companies shall perform collection and hauling of garbage from single-family residences that request collection service in unincorporated portions of Whatcom County. Service to single-family residences shall be provided on a schedule of either weekly, every-other-week or monthly collection. ~~In Point Roberts only, seasonal vacation or weekend residents will be encouraged to participate in recycling and have the option of on-call service.~~

B. Garbage containers provided by and for single-family residences shall be 30 to 32 gallons and 15 to 20 gallons. Solid waste collection companies may also offer 60- or 90-gallon

containers. A specific size within the 15- to 20-gallon "mini-can" range shall be approved by each company and shall be consistent within its certified service area. Ninety-gallon can service shall be available only on a weekly or every-other-week basis. The design of all containers within each service area shall be subject to approval by the solid waste collection company certified for that area.

C. Collection rate structures shall be designed to encourage waste reduction and recycling and to comply with the plan. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

D. Effective January 1, 2019 single-family residential real properties located in Point Roberts, with on-site sewage systems, shall no longer be exempt from mandatory curbside collection services. As a minimum level of service, the minimum required curbside collection service shall be every other week garbage collection of a 32 gallon can and three bin source separated recyclables. The cost of the minimum level of service, as per the approved UTC tariff, shall be billed as an annual fee on the property tax statement, at the rate of one minimum level of service per real property. Service levels above the minimum level of service, as may be requested of the service provider, for larger cans, increased frequency of pickup, carry out or other services, will be invoiced directly by the service provider as per the approved UTC tariff.

#### **8.10.050 Residential recycling collection.**

A. Solid waste collection companies shall collect source-separated recyclables from all residences in unincorporated portions of Whatcom County that receive regularly scheduled garbage collection. All single-family residences shall be provided with recycling collection at least every other week and on the same day of the week as garbage collection. Service to multifamily residences shall be provided at least every other week. The solid waste collection company shall provide residents who have completed the garbage exemption process the opportunity to subscribe to recycling-only collection service without subscribing to garbage collection. Recycling-only customers will be charged the full cost of recycling collection service plus an appropriate administrative/billing fee. ~~In Point Roberts only, single-family residences are defined as permanently year-round occupied buildings and every-other-week recycling collection does not have to be on the same day as garbage pickup. All single-family residences located in Point Roberts meeting the definition of seasonal vacation or weekend homes, as defined under WCC 8.10.030(H), are exempt from curbside recycling collection.~~

B. The solid waste collection company shall provide recycling containers to each residence at the customer's request. Container design and use shall be subject to the prior administrative approval of the county. The Utilities and Transportation Commission, by law, will establish fair, just, reasonable, and sufficient rates for solid waste collection companies under Chapter 81.77 RCW. The company shall deliver all containers to the dwelling unit unless otherwise directed by the county.

C. 1. Solid waste collection companies shall collect, and recycling containers shall be designed to hold, the following materials:

- a. Newspaper;
- b. Mixed waste paper;
- c. Aluminum containers;
- d. Tin-plated steel containers;
- e. Glass containers;
- f. All plastic bottles; all remaining plastic containers are eligible as approved by the county and the solid waste collection company;
- g. Yard Waste. Collection of this material is deferred pending further amendments to this chapter.

2. The following materials shall also be collected when placed adjacent to set-out containers:

- a. Corrugated cardboard;
- b. Scrap metal no longer than 24 inches in any dimension or heavier than 35 pounds per piece;
- c. Lead-acid batteries that show no signs of leakage;
- d. Used motor oil in sealed containers;
- e. Nothing in this section shall prohibit the solid waste collection company from picking up additional items at the company's discretion.



D. Materials shall be collected on the improved public road nearest to the residence (or mutually agreed upon location) when properly set out on the designated collection day. The solid waste collection company is not required to collect materials at any particular hour. The collector is not required to enter private property to collect material while an animal considered or feared to be vicious is loose. The resident shall confine such an animal on collection day.

E. In case of missed collection, the solid waste collection company shall investigate and, if the missed collection is verified, shall arrange for the collection of the uncollected recyclable material within one business day after the complaint is received, unless otherwise agreed by the company and customer. All solid waste collection companies shall add staff as needed to answer questions and respond to complaints from 8:00 a.m. to 5:00 p.m. on collection days.

F. A solid waste collection company subject to regulation by the UTC as to rates and service shall not charge, demand, collect, or receive a different compensation from its customers than the applicable UTC-established rates (Chapter 81.28 RCW).

G. Solid waste collection companies and recycling companies shall take reasonable actions in marketing recyclable materials to implement the county's policies regarding local processing and priorities of use. All materials collected shall be processed and marketed such that no recyclable material is landfilled, incinerated, or disposed of in any way other than recycling. The companies shall adopt collection procedures and technologies to minimize the cross-contamination or non-recyclability of collected materials.

H. The county, in consultation with solid waste collection companies and purchasers of recyclable materials, shall establish promotional strategies by which the companies shall inform the public about recycling collection service. The county may adopt, and pay for, additional promotional strategies if they wish. Requirements imposed by the UTC are not promotional strategies for purposes of this section.

I. It is unlawful for any person, other than the solid waste collection companies as authorized by this chapter, to collect, remove, haul, or dispose of recyclable materials set out for collection pursuant to this section without first obtaining the consent of the occupant or owner of the premises. Any violation of this subsection shall constitute a misdemeanor and, upon conviction, violators shall be punished by a fine of not less than \$500.00. Each day of such violation, and violation at each dwelling unit, shall be deemed a separate and independent offense. (RCW 70.95.235)

J. The business name and telephone number of the collector shall be clearly visible on each side of each vehicle used to provide residential recycling service. The collector shall contain, tie, or enclose all collected materials to prevent leaking, spilling, or littering.

K. If the county executive determines that a solid waste collection company has materially failed to comply with the requirements or policies of this chapter, the county executive shall provide the company with a written notice specifying the noncompliance and affording the company 60 days to cure the noncompliance; provided, however, that the solid waste collection company shall not be required to cure any noncompliance that is caused by an event or condition, including a threat to the public health or safety, that is beyond the company's control. At the discretion of the county executive, the period for cure may be extended. If the solid waste collection company fails to cure, the county may contract for the provision of residential recycling service pursuant to RCW 36.58.040 in the area served by the company.

L. Should the county or the solid waste collection company determine that there is no reasonable market for a material and/or the cost of recycling that material is unreasonable, they can petition the executive to eliminate the requirement for that material to be collected as a recyclable. The executive has full discretion whether to accept or deny the request. The executive must state the period of time the exemption will be allowed. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

**8.10.060 Nonresidential and multifamily garbage collection.**

A. Solid waste collection companies shall perform collection and hauling of garbage from nonresidential and multifamily accounts in Whatcom County.

B. Container sizes for nonresidential and multifamily accounts shall be approved by the solid waste collection company.

C. Rate structures for multifamily garbage collection shall be designed to encourage waste reduction and recycling and to comply with the plan.

D. Solid waste collection companies shall bill each customer at least once every three months. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

**8.10.070 Submittal of documents and notices.**

A. Whenever a solid waste collection company files a proposed tariff revision with the UTC, the company shall simultaneously provide the county with copies of the proposed tariff and all nonproprietary supporting materials submitted to the UTC any time prior to approval of the tariff. Such materials include but are not limited to any correspondence or other information concerning rate calculation parameters and details, tariff sheet application and adjustments, and annual reports.

B. 1. All solid waste collection companies, recycling collectors and processors, transfer facilities, and disposal facilities shall provide the county with the following quarterly information on April 20th, July 20th, October 20th, and January 20th for each of the previous three months and, where appropriate and practical, separately listed for each city and unincorporated area of the county:

- a. Daily disposal tonnages to and from municipal disposal facilities for each primary disposal or processing method, transfer stations, and convenience centers;
- b. Monthly disposal tonnages from industrial and other private landfills;
- c. Monthly recycling tonnages per material from all recycling collectors and processors;
- d. Solid waste collection, disposal, and recycling collection and processing service contracts and amendments within incorporated and unincorporated areas of the county; and
- e. A log of all customer complaints about recycling, specifying the date, nature of complaint and resolution for each complaint.

2. In addition, all solid waste collection companies shall provide the county with the following information regarding residential recycling and, where appropriate and practical, separately listed for single-family and multifamily residences broken out by city/county:

- a. Monthly tonnages and, if available, volumes of materials collected by type of material collected, and revenues/costs by type of material;
- b. Number of eligible customers and number of set-outs per month. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

**8.10.080 Notice to Utilities and Transportation Commission.**

The Whatcom County council, pursuant to RCW 36.58.040, hereby notifies and requests the Utilities and Transportation Commission to carry out and implement the policies and programs specified in this chapter and in the plan in coordination with solid waste collection companies and common carriers through the Commission's rate setting and oversight authority. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

**8.10.090 Modification of collection schedules.**

The provisions of this chapter concerning (1) the frequency of collection of recyclable materials and garbage; (2) service levels in rural areas; and (3) rate structures in the event that the UTC issues an inconsistent order may be modified by agreement of the county executive and all solid waste collection companies, subject to approval by the county council. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

**8.10.100 Severability.**

If any portion or section of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the section to other persons or circumstances is not affected. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

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1 Prior legislation: Ords. 90-95, 91-003 and 91-054.