

2004 General Ordinances

04-1251	01-26-04	An Ordinance Amending Sections 6 and 7 of General Ordinance 92-1155 Concerning the Franchise Granted to The Dalles Disposal, Inc.
04-1252	04-12-04	An Ordinance Allowing the Placement of Sidewalk Furniture in the Central Business Commercial Zone and Repealing General Ordinance No. 88-1091
04-1253	06-28-04	An Ordinance Amending Section 1 of General Ordinance No. 86-1078, Concerning the Downtown Parking District
04-1254	09-27-04	An Ordinance Approving Comprehensive Land Use Plan Map Amendment #28-04 and Land Use Development Ordinance Map Amendment #68-04
04-1255	10-11-04	An Ordinance Approving Comprehensive Land Use Plan Map #27-04 and Land Use Development Ordinance Map Amendment #76-04
04-1256	12-13-04	An Ordinance Amending Certain Provisions of General Ordinance No. 96-1205 Concerning the Pretreatment of Materials Discharged to the City's Wastewater Treatment Plant

GENERAL ORDINANCE NO. 04- 1256

**AN ORDINANCE AMENDING CERTAIN PROVISIONS OF
GENERAL ORDINANCE NO. 96-1205 CONCERNING THE
PRETREATMENT OF MATERIALS DISCHARGED TO
THE CITY'S WASTEWATER TREATMENT PLANT**

WHEREAS, on August 12, 1996, the City Council adopted General Ordinance No. 96-1205, which established regulations designed to prevent the introduction of pollutants into the City's wastewater treatment system; and

WHEREAS, City staff members have been working with representatives of the Oregon Department of Environmental Quality to create an updated version of the Enforcement Response Plan, which Plan is a vital component of the pretreatment program established by General Ordinance No. 96-1205; and

WHEREAS, certain revisions to the City's Pretreatment Ordinance are necessary to ensure the ordinance is consistent with the provisions contained in the updated version of the City's Enforcement Response Plan;

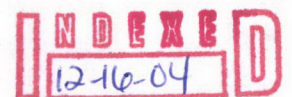
**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES
ORDAINS AS FOLLOWS:**

1. Section 5.3(E) of General Ordinance No. 96-1205, concerning Wastewater Discharge Permit Appeals, shall be amended to read as follows:
 - A. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a petition for a writ of review with the Wasco County Circuit Court within sixty (60) days of the final decision sought to be reviewed.

2. Section 10, Administrative Enforcement Remedies, shall be amended in the following manner:
 - A. A new Section 10.1, Informal Notice of Violation shall be added as follows:

10.1 Informal Notice of Violation

An Informal Notice of Violation will typically be issued for a type of activity identified as appropriate for issuance of an informal notice of violation under the guidelines for enforcement set forth in the Control Authority's Enforcement Response Plan. An Informal Notice of Violation will typically be delivered to the



identified industrial user in person, or by telephone, facsimile, or mail. Delivery of the notice shall be documented at a minimum, in the enforcement log for the identified industrial user.

B. The section numbers for subsections 10.1 Notification of Violation; 10.2 Consent Orders; 10.3 Show Cause Hearing; 10.4 Compliance Orders; 10.5 Cease and Desist Orders; 10.6 Administrative Fines; 10.7 Emergency Suspensions; and 10.8 Termination of Discharge, shall be renumbered 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8, and 10.9 respectively.

C. Section 10.6 Administrative Fines, which will be renumbered as Section 10.7, shall be amended by revising subsections 10.6(A) and (C) to read as follows:

A. When the Control Authority finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may fine such user in an amount not to exceed \$10,000; provided, however, that the Control Authority may evaluate each alleged industrial user violation to determine whether Enforcement Response Plan Guidelines are appropriate on a case by case basis. As an example, the Control Authority may issue penalties above those listed in the matrix for any industrial user violation if the Control Authority believes it will deter an industrial user from paying fines for pollution as a cost of doing business. Any and all such fines shall be assessed on a per violation, per day basis. The Control Authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

C. A user who desires to appeal a decision imposing an administrative fine must file a written request with the City Manager for reconsideration of the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Upon receipt of the written request for reconsideration, the City Manager shall conduct a hearing on the matter within thirty (30) days of receiving the request from the user. In the event the user's appeal is successful, the payment for the fine, together with any interest accruing thereto, shall be returned to the user.

3. Section 11, Judicial Enforcement Remedies, shall be amended in the following manner:

A. 11.1 Injunctive Relief. Shall be amended by changing the first sentence to read as follows: "When the Control Authority finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge


permit, or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may petition the Circuit Court through the Control Authority's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user."

- B. 11.2 Civil Penalties (A). Shall be amended to read as follows: "A user which has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Control Authority for a maximum civil penalty of \$10,000 per violation, per day."
- C. 11.3 Criminal Prosecution (D). Shall be amended to read as follows: "In the event of a second conviction, a user shall be punished by a fine of not more than \$2,000 per violation per day, or imprisonment for not more than sixty (60) days, or both."


PASSED AND ADOPTED THIS 13th DAY OF DECEMBER, 2004.

Voting Yes, Councilors: Davison, Tenney, Broehl, Davis, Zukin
Voting No, Councilors: None
Absent, Councilors: None
Abstaining, Councilors: None

AND APPROVED BY THE MAYOR THIS 13th DAY OF DECEMBER, 2004.



Robb E. Van Cleave, Mayor

Attest:


Julie Krueger, CMC, City Clerk

GENERAL ORDINANCE NO 04-1255

AN ORDINANCE APPROVING COMPREHENSIVE LAND USE
PLAN MAP AMENDMENT # 27-04, AND LAND USE AND
DEVELOPMENT ORDINANCE MAP AMENDMENT # 67-04

WHEREAS, the City of The Dalles initiated applications for Comprehensive Land Use Plan map amendment # 27-04 and Land Use and Development Ordinance map amendment # 67-04, concerning the property described Assessor's Maps & Tax Lots: 2N 13E 28, Tax Lots 101, 107, 109; 2N 13E 28A, Tax Lots 100, 800, 900, 1000; and 2N 13E 28D, Tax Lots 2200, 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100, 3200; and

WHEREAS, *Parcels to be entirely "CR" Commercial Recreational*
2N 13E 28, Tax Lot 109
2N 13E 28D, Tax Lots 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100,
3200

Parcels to be entirely "I" Industrial
2N 13E 28, Tax Lots 101, 107
2N 13E 28A, Tax Lots 100, 800, 900, 1000
2N 13E 28D, Tax Lot 2200; and

WHEREAS, this will modify Comprehensive Plan and zoning designations to match the properties lines of parcels in the Port District; and

WHEREAS, on July 15, 2004, the City Planning Commission conducted a public hearing on the two applications and voted to recommend to the City Council that both applications be approved; and

WHEREAS, on September 13, 2004, the City Council conducted a public hearing upon the two applications and reviewed the record including the staff reports submitted as part of the record; and

WHEREAS, the City Council approves and specifically adopts the findings of fact and conclusions set forth in the staff reports submitted as part of the record, and incorporates those findings of fact and conclusions in this ordinance; NOW, THEREFORE

THE CITY COUNCIL OF THE CITY OF THE DALLES ORDAINS AS
FOLLOWS:

Section 1. Map Amendments to the Comprehensive Land Use Plan and Land Use and Development Ordinance Maps Adopted.

The City of The Dalles Comprehensive Land Use Plan map and the Land Use and Development Ordinance map, concerning the property described Assessor's Maps & Tax

INDEXED
10-12-04

Lots: 2N 13E 28, Tax Lots 101, 107, 109; 2N 13E 28A, Tax Lots 100, 800, 900, 1000; and 2N 13E 28D, Tax Lots 2200, 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100, 3200 are hereby amended as follows:

Parcels to be entirely "CR" Commercial Recreational

2N 13E 28, Tax Lot 109

2N 13E 28D, Tax Lots 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100, 3200

Parcels to be entirely "I" Industrial

2N 13E 28, Tax Lots 101, 107

2N 13E 28A, Tax Lots 100, 800, 900, 1000

2N 13E 28D, Tax Lot 2200; and


Section 2. Notification. Pursuant to ORS 197.615, the Community Development Department shall notify the Department of Land Conservation and Development of this action no later than five (5) working days after adoption.

Section 3. Effective Date. This ordinance shall go into full force and effect 30 days after its passage and adoption.

PASSED AND ADOPTED THIS 11TH DAY OF OCTOBER, 2004.

Voting Yes, Councilor(s): Tenney, Broehl, Davis, Davison
Voting No, Councilor(s): None
Absent, Councilor(s): Zukin
Abstaining, Councilor(s): None

AND APPROVED BY THE MAYOR THIS 11TH DAY OF OCTOBER, 2004.


~~Robb E. Van Cleave, Mayor~~
Mary Ann Davis, Mayor pro-tem

Attest


Julie Krueger, CMC/AAE, City Clerk

GENERAL ORDINANCE NO 04-1254

AN ORDINANCE APPROVING COMPREHENSIVE LAND USE
PLAN MAP AMENDMENT # 28-04, AND LAND USE AND
DEVELOPMENT ORDINANCE MAP AMENDMENT # 68-04

WHEREAS, the City of The Dalles initiated applications for Comprehensive Land Use Plan map amendment # 28-04 and Land Use and Development Ordinance map amendment # 68-04, concerning the property described as Assessor's Map No. 1N 13E 3DA, Tax Lot 100, located at 901 East 2nd Street, and the associated Street right-of-way. The plan and zoning change on the parcel is from "Industrial" to "Central Business Commercial" and within the street right-of-way from unzoned area to "Central Business Commercial"; and

WHEREAS, on July 1, 2004, the City Planning Commission conducted a public hearing on the two applications and voted to recommend to the City Council that both applications be approved; and

WHEREAS, on July 26, 2004, the City Council conducted a public hearing upon the two applications and reviewed the record including the staff reports submitted as part of the record; and

WHEREAS, the City Council approves and specifically adopts the findings of fact and conclusions set forth in the staff reports submitted as part of the record, and incorporates those findings of fact and conclusions in this ordinance; NOW, THEREFORE

THE CITY COUNCIL OF THE CITY OF THE DALLES ORDAINS AS
FOLLOWS:

Section 1. Map Amendments to the Comprehensive Land Use Plan and Land Use and Development Ordinance Maps Adopted.

The City of The Dalles Comprehensive Land Use Plan map and the Land Use and Development Ordinance map, for the parcel described as Assessor's Map No. 1N 13E 3DA, Tax Lot 100, located at 901 East 2nd Street, and the associated street right-of-way, as shown on the map attached as "Exhibit A" are hereby amended. The designation for the Comprehensive Land Use Plan map and for the Land Use and Development Ordinance map shall be "Central Business Commercial".

Section 2. Notification. Pursuant to ORS 197.615, the Community Development Department shall notify the Department of Land Conservation and Development of this action no later than five (5) working days after adoption.

Section 3. Effective Date. This ordinance shall go into full force and effect 30 days after its passage and adoption.

INDEXED
9-30-04

PASSED AND ADOPTED THIS 27TH DAY OF SEPTEMBER, 2004.


Voting Yes, Councilor(s): Davison, Broehl, Davis, Tenney, Zukin
Voting No, Councilor(s): None
Absent, Councilor(s): None
Abstaining, Councilor(s): None

AND APPROVED BY THE MAYOR THIS 27TH DAY OF SEPTEMBER, 2004.



Robb E. Van Cleave, Mayor

Attest



Julie Krueger, CMC/AAE, City Clerk

GENERAL ORDINANCE NO. 04-1253

AN ORDINANCE AMENDING SECTION 1 OF GENERAL ORDINANCE NO. 86-1078, CONCERNING THE DOWNTOWN PARKING DISTRICT

WHEREAS, the City Council adopted General Ordinance No. 86-1078 on December 15, 1986, establishing a downtown parking district, which included certain restrictions on parking within the boundaries of the district; and

WHEREAS, the City has been requested to consider revising the boundaries of the district to include additional areas within the district; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:

Section 1. Section 1 of General Ordinance No. 86-1078 shall be revised to read as follows:

Section 1. Downtown Parking District. There is hereby established a downtown parking district of the City of The Dalles which is defined by the bold, dashed lines outlined on the map marked Exhibit "A" and by this reference made a part hereof. Future revisions to the downtown parking district area may be adopted by the Council by resolution.

PASSED AND ADOPTED THIS 28TH DAY OF JUNE, 2004.

Voting Yes, Councilor: Davison, Broehl, Davis, Zukin
Voting No, Councilor: None
Absent, Councilor: Tenney
Abstaining, Councilor: None

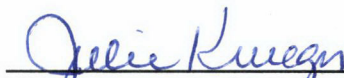
AND APPROVED BY THE MAYOR THIS 28TH DAY OF JUNE, 2004.



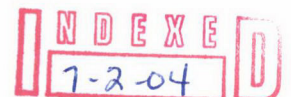
~~Robb E. Van Cleave, Mayor~~

Mary Ann Davis, Mayor pro-tem

Attest:



Julie Krueger, CMC/AAE, City Clerk



Downtown Parking District

Exhibit A

Revised - June 2004



 **No Parking Areas**



GENERAL ORDINANCE NO. 04-1252

AN ORDINANCE ALLOWING FOR THE
PLACEMENT OF SIDEWALK FURNITURE IN
THE CENTRAL BUSINESS COMMERCIAL ZONE
AND REPEALING GENERAL ORDINANCE NO.
88-1091

(Option A-With Emergency Clause)

WHEREAS, the City has received a request from certain local downtown business owners to allow for the placement of sidewalk furniture adjacent to their businesses; and

WHEREAS, the City currently has an ordinance in effect, (General Ordinance No. 88-1091) which regulates the placement of sidewalk cafes and street furniture on sidewalks and public rights-of-way, which ordinance contains obsolete provisions which would be repealed by the more comprehensive provisions of the ordinance proposed for adoption by the City Council, including provisions concerning definitions, review procedures, review criteria, liability and insurance, and enforcement; and

WHEREAS, the City Council conducted a public hearing on April 12, 2004 to consider public testimony on the proposed ordinance; and

WHEREAS, downtown merchants who testified during the public hearing emphasized the economic benefits that would result to their businesses from being granted the authority to place sidewalk furniture on the sidewalks adjacent to their businesses, and the importance of having the proposed ordinance take effect as quickly as possible to take advantage of the upcoming tourist season and scheduled public events:

NOW, THEREFORE, THE COUNCIL OF THE CITY OF THE DALLES ORDAINS
AS FOLLOWS:

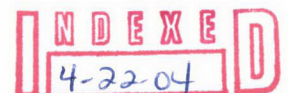
Section 1. Purpose

The purpose of this Section is to provide standards for the siting and use of sidewalk furniture associated with downtown businesses.

Section 2. Definition

“Sidewalk furniture” includes items placed in the public sidewalk by businesses for incidental use by their customers while patronizing said business, and includes, but is not limited to:

- planters;
- flower boxes;



- chairs;
- benches;
- tables;
- umbrellas;
- lights;
- heaters;
- street clocks;
- trash cans and ashtrays; and
- any other fixture or furnishing deemed to be similar by the Community Development Department Director (hereinafter referred to as the “Director”).

Sidewalk furniture does not include signs, which are regulated under a separate ordinance.

Nothing in this ordinance shall be construed to allow the vending of goods on streets or sidewalks, which is regulated under a separate ordinance.

Nothing in this ordinance shall be construed to pertain to the placement of objects, similar to sidewalk furniture or otherwise, in the public right-of-way by the City or any other authorized public agency, public/private agency, or utility.

Section 3. Permit

A permit is required in order to place sidewalk furniture in the public right-of-way.

Section 4. Review Procedures

A. Applications. In addition to the requirements of **Section 3.010: Application Procedures**, of General Ordinance No. 98-1222, applications for sidewalk furniture shall be accompanied by:

1. A plot plan drawn to scale that indicates the location and dimensions of:
 - a) the property;
 - b) the building in which the business is located, including the location of doors;
 - c) the public right-of-way, including sidewalk, adjacent to the property;
 - d) location of existing sidewalk furniture;
 - e) location of trees, mailboxes, signs, utility poles, trash receptacles, and any other permanent or semi-permanent features;

f) any other information necessary to make a determination of the appropriate placement of sidewalk furniture in accordance with the standards of this ordinance.

2. A dimensioned diagram of the proposed sidewalk furniture, including the colors and materials of said items.

3. Signatures of the applicant and the property owner(s).

B. Review. Where allowed, sidewalk furniture shall be permitted outright as accessory to the primary use, and as such shall be processed as a ministerial action, per the provisions of *Section 3.020.030: Ministerial Actions of General Ordinance No. 98-1222*, and approved, approved with conditions, or denied by the Director.

Section 5. Review Criteria

A. Permitted Zones. Sidewalk furniture is allowed for any permitted businesses in the Central Business Commercial Zone.

B. Location. Sidewalk furniture may be placed in the public sidewalk right-of-way, in conformance with the following standards:

1. Where there is a minimum of six feet (6') of clear, concrete sidewalk passage, excluding pavers.

2. Adjacent to the property occupied by the business.

C. Placement.

1. Sidewalk furniture shall not be placed closer than three feet (3') from the entrance to the business or storefront, measured from the nearest door edge to the near edge of the sidewalk furniture (see Exhibit 1).

a) Where a door swings into the public right-of-way, street furniture can be placed next to the door on the hinged side.

2. Sidewalk furniture shall not be placed closer than three feet (3') from the edge of the property line or property corner, measured from the nearest property corner to the near edge of the sidewalk furniture (see Exhibit 2).

3. Sidewalk furniture shall not be placed in front of murals, except where the bottom of the mural is above the top of the sidewalk furniture.

4. Sidewalk furniture shall not be allowed in alleys.
- D. Dimensions. Sidewalk furniture shall not exceed the following dimensions:
1. Maximum width shall be twenty-five inches (25").
 2. Maximum height shall be:
 - a) ninety-six inches (96") for items attached to poles that are no greater than eight inches (8") in width or diameter;
 - b) forty-five inches (45") for all other items.
 3. There is no set maximum length. The maximum length shall be determined by other restrictions set forth in this section.
- E. Hours. Planters, flower boxes, trash cans, benches, street clocks, and other similar objects shall be allowed to remain outside when the business is closed, but only if they are securely attached to the ground or adjacent structure. All other sidewalk furniture shall be placed outside only during business hours.
- F. Attachments. No extraneous fixed or moving attachments shall be placed on any sidewalk furniture.
- G. Materials. In an effort to ensure that sidewalk furniture is attractive and durable, the following standards shall apply:
1. ***Tables, chairs, benches, planters, and flower boxes.*** At least 50% of the exterior surface of any item must be constructed of metal and/or wood.
- H. Design. In order to reduce or eliminate unsightly sidewalk furniture, and to preserve the historic character of downtown The Dalles, the following standards shall apply:
1. ***Prohibited colors:***
 - a) any fluorescent, day-glo, glittery, or reflective color.
 2. ***Preferred colors:***
 - a) colors from Historic Color palettes;
 - b) natural wood, brick, or metal.

3. ***Historic districts.*** Sidewalk furniture in The Dalles Commercial Historic District and Trevitt's Addition shall adhere to design standards set forth in the document entitled "Design Guidelines for The Dalles Commercial Historic District and Trevitt's Addition".
 4. ***Advertisements.*** Advertising on sidewalk furniture is prohibited, except in the following instances, as determined by the Director:
 - a) on the faces of street clocks;
 - b) placement of the permittee's business name in an unobtrusive or incidental manner, not to exceed 2" in height by 8" in width, with a limit of one per piece of sidewalk furniture;
 - c) incidental logos that are affixed by the manufacturer and do not advertise the permittee's business.
- I. **Maintenance.** In order to reduce or eliminate unsightly items, sidewalk furniture must be kept in a state of good repair and condition, and free from the following conditions:
1. Rust;
 2. Chipped or peeling paint or finishes;
 3. Delaminating or peeling materials;
 4. Missing hardware;
 5. Rotting materials;
 6. Poor craftsmanship or construction that would cause the item to be structurally unsound and thereby pose a health or safety hazard;
 7. Any other condition that the Director deems to be contrary to the purposes of promoting visually-appealing and structurally-sound sidewalk furniture.
- J. **Installation.** In order to provide for a safe pedestrian environment, all sidewalk furniture shall be braced, weighted, or affixed so that it cannot be blown away by the wind.
1. No sandbags, concrete blocks, scrap metal, or other similar materials shall be used to stabilize any sidewalk furniture.

2. No items may be attached or affixed to sidewalks, signs, bollards, mailboxes, public street furniture, or any other public fixture or furnishing, without the consent of the Director of the Public Works and the Director of the Community Development Department.

K. Use.

1. Sidewalk furniture shall not be used for the display of merchandise that is for sale.
2. Sidewalk furniture legally placed in the sidewalk by a private party may be reserved for the exclusive use of the business patrons of said party.

L. Prohibited Furniture. For reasons of safety, the following objects are prohibited:

1. Umbrellas. Strong, gusty winds in the area make umbrellas inappropriate.
2. Any other fixture or furnishing deemed to be hazardous, unsafe, or dangerous by the Director.

Section 6. Liability and Insurance

The applicant shall submit a signed statement providing that the applicant shall hold harmless the City of The Dalles, its officers and employees and shall indemnify the City of The Dalles, its officers and employees for any claims for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Applicant shall furnish and maintain such public liability, and property damage insurance as will protect applicant and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall have a combined single limit coverage of \$500,000 per occurrence for bodily injury and property damage. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insured the City of The Dalles and its officers and employees and shall further provide that the policy shall not terminate or be cancelled without first providing thirty (30) days written notice to the Director.

Section 7. Enforcement

- A. The following notice and enforcement standards shall apply to the placement and display of sidewalk furniture.
 1. For purposes of administering the provisions of this ordinance, the City Manager shall appoint appropriate staff persons.

2. Unsafe sidewalk furniture shall be defined as sidewalk furniture that violates any of the following provisions:
 - a) any placement standard set forth in Section 5C.1., 2., 3., and 4.;
 - b) any dimensional standard set forth in Section 5D.;
 - c) Any maintenance standard set forth in Section 5I.
3. The applicant shall take action to assure that their sidewalk furniture remains in compliance with the applicable standards at all times.
4. In the case of sidewalk furniture that has been determined to be unsafe, the authorized staff person shall immediately attempt to give verbal notice of the violation to the owner or owners of the business(es) that holds the permit for the sidewalk furniture, or to an on-site employee of the business(es). In the event the responsible person(s) who is provided notice under this section refuses to correct the violation immediately, the authorized staff person shall remove or cause others to remove and impound the sidewalk furniture.
5. In the case of sidewalk furniture which is displayed during non-business hours, the authorized staff person shall issue a written notice of the violation. The notice shall be given to the owner or owners of the business(es) that holds the permit for the sidewalk furniture, and shall be either delivered personally or by certified mail, return receipt requested, sent to the owner's last known address of record. The notice shall require correction of the violation within five (5) days from either the date of personal delivery of the notice, or the date of mailing of the notice.
 - a) If the violation is not corrected within the five (5) day period, the authorized staff person shall send a second written notice of violation, by certified mail, return receipt requested, to the owner or owners of the business(es) that holds the permit for the sidewalk furniture, indicating that the sidewalk furniture may be impounded if the violation is not corrected within five (5) days from the date of mailing of the notice.
 - b) If the violation remains after issuance of the second notice, the authorized staff person may remove or cause others to remove and impound the sidewalk furniture.

6. For other sidewalk furniture that has been determined not to conform to the provisions of this ordinance, the authorized staff person shall issue a written notice of non-compliance. The notice shall be given to the owner or owners of the business(es) that holds the permit for the sidewalk furniture. The notice shall either be delivered personally to the business owner(s), or sent by certified mail, return receipt requested, to the business owner(s) at the owner's last known address of record. The notice shall set forth the nature of the violation, and shall require the violation be corrected within fifteen (15) days from either the date of personal delivery or the date of mailing of the notice, unless the time for compliance is extended for good cause shown. If the non-conforming sidewalk furniture is not brought into compliance within the required time period, the authorized staff person may remove or cause others to remove and impound the sidewalk furniture.

7. Upon impoundment of sidewalk furniture under the provisions of Section 7A.4., 5., or 6., the authorized staff person shall post a notice of impoundment in a visible location upon the premises of the business that holds the permit for the sidewalk furniture. The authorized staff person shall immediately provide a copy of the impoundment notice to the business owner(s) by either personal delivery or by certified mail, return receipt requested, sent to the owner's last known address of record.
 - a) The notice of impoundment shall specify the sections of the ordinance which have been violated, the place and time when the impounded sidewalk furniture can be recovered, the cost of any fee which must be paid to recover the sidewalk furniture, and the length of time until the impounded furniture is discarded if the sidewalk furniture is not reclaimed.

 - b) The notice shall also provide the owner(s) of the sidewalk furniture that has been impounded with notice that they may request a hearing to contest the validity of the impoundment. A request for a hearing must be made, to the Director, within five (5) calendar days after either the date of personal delivery of the impoundment notice, or the date that notice of impoundment was mailed, as evidenced by the postmark, not including Saturdays, Sundays, or holidays. When a timely request for a hearing is made, a hearing shall be set in the Municipal Court for four (4) calendar days after the request is received, excluding Saturdays, Sundays, or holidays, but may be postponed at the request of the person asking for the hearing. The Municipal Court Judge shall determine whether impoundment of the sidewalk furniture was proper.

8. In order to retrieve impounded sidewalk furniture, the owner of the sidewalk furniture shall present a copy of the impound notice to the Director, at the time and place indicated on the notice of impoundment.
 - a) The fee to retrieve impounded sidewalk furniture for a first violation of this ordinance shall be ten dollars (\$10.00). The fee to retrieve impounded sidewalk furniture for a second violation of this ordinance shall be fifty dollars (\$50.00). The fee to retrieve impounded sidewalk furniture for a third violation of this ordinance shall be one hundred dollars (\$100.00). For each subsequent violation of this ordinance, the fee to retrieve impounded sidewalk furniture shall be one hundred dollars (\$100.00). For purposes of this section, the number of offenses shall be calculated based upon the number of violations attributable to the business owner(s) of the sidewalk furniture, who has violated the provisions of this ordinance.
 - b) Any sidewalk furniture which has been impounded and is not reclaimed within ninety (90) days from the date of impoundment, may be disposed of by the authorized staff person.

Section 8. Repeal

General Ordinance No. 88-1091, adopted on August 15, 1988, is hereby repealed.

Section 9. Emergency Clause

Whereas, local downtown business owners are continuing to face economic challenges in light of current economic conditions; and whereas, providing an option to the business owners to place street furniture on the sidewalks adjacent to their businesses will provide an opportunity for local business owners to attract customers, and promote the economic health and welfare of the City; and, whereas, implementing a process for placement of street furniture as soon as possible will allow local merchants to attract potential customers during the upcoming tourist season and a time when several public events are scheduled, which will enhance the opportunity for economic benefits for local business owners; and, whereas, the regulations in the proposed ordinance will ensure the street furniture is placed in a manner that protects the safety and welfare of pedestrians using the sidewalks; Now, therefore, an emergency is declared to exist, and this ordinance shall go into effect immediately upon its passage and approval.

PASSED AND ADOPTED THIS 12TH DAY OF APRIL, 2004.

Voting Yes, Council member: Davis, ~~Broehl~~ Broehl, Tenney

Voting No, Council member: None

Absent, Council member: Davison, Zukin

Abstaining, Council member: None

AND APPROVED BY THE MAYOR THIS 12TH DAY OF APRIL, 2004.



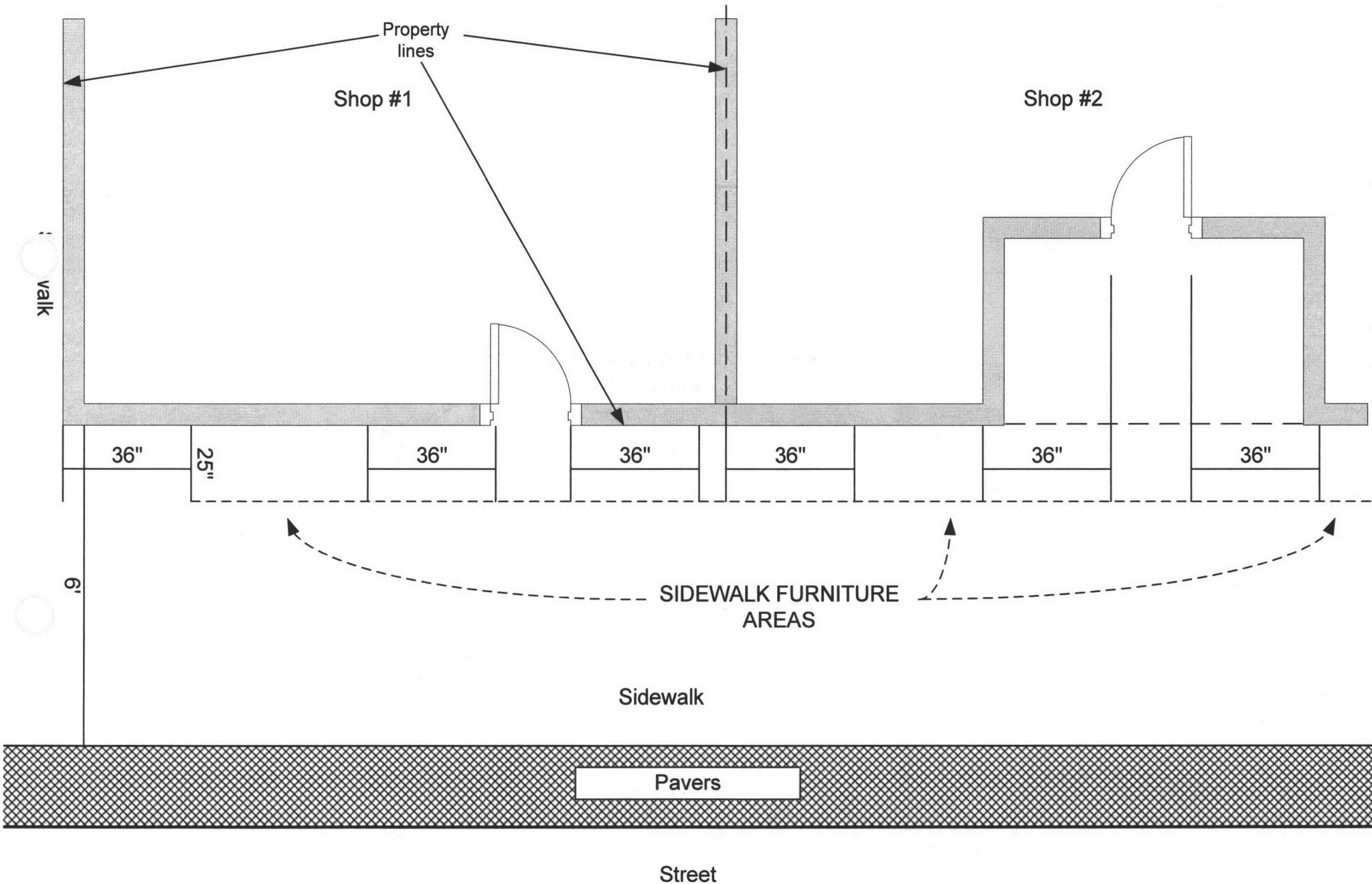
Robb E. Van Cleave, Mayor

ATTEST:



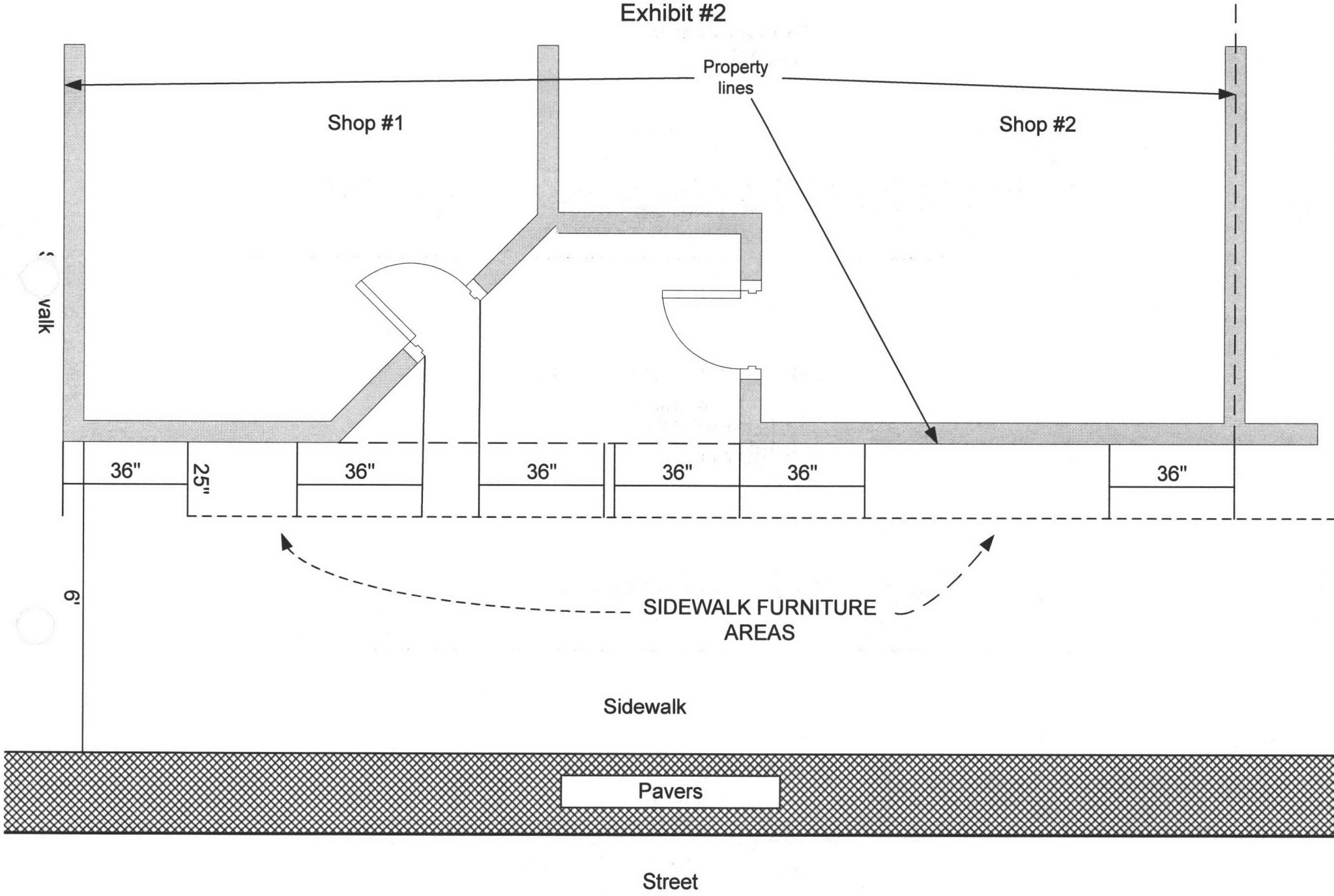
Julie Krueger, CMC/AAE, City Clerk

SIDEWALK FURNITURE Exhibit #1



NOT TO SCALE

SIDEWALK FURNITURE Exhibit #2



NOT TO SCALE

GENERAL ORDINANCE NO. 04-1251

AN ORDINANCE AMENDING SECTIONS 6 AND 7 OF GENERAL ORDINANCE NO. 92-1155 CONCERNING THE FRANCHISE GRANTED TO THE DALLES DISPOSAL SERVICE, INC.

WHEREAS, the City of The Dalles has granted a franchise to The Dalles Disposal Service, Inc. pursuant to the provisions of General Ordinance No. 92-1155, which ordinance regulates the collection of solid waste materials within the City of The Dalles; and

WHEREAS, The Dalles Disposal Service, Inc. has requested the City to consider adoption of amendments to General Ordinance No. 92-1155 to address issues related to the control of the flow of solid waste materials to the local transfer station and the Wasco County landfill, to ensure that the surcharge which was recently authorized to pay for the costs of a Household Hazardous Waste Program, is collected so that there is sufficient revenue to operate the program; and

WHEREAS, the City Council has reviewed the language of the proposed amendments, and finds that adoption of the proposed amendments is in the public interest;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:

Section 1. Sections 6 and 7 of General Ordinance No. 92-1155 shall be amended to read as follows:

Section 6. Franchise Granted; Overlapping Franchise Applications; Exemption from Franchise Requirement.

- (a) The City Council hereby grants to Waste Connections of Oregon, Inc., dba The Dalles Disposal, an Oregon corporation, the privilege and franchise to operate and conduct a solid waste collection service excluding biomedical and infectious wastes within the service area, subject to the terms and conditions herein. The City Council may provide for overlapping solid waste franchises, upon due and timely notice to the franchisee, and upon enumerated circumstances under which the existing franchisee has been deemed to have failed to provide efficient service consistent with the public health and safety. Following written notice of the City's intentions to issue an overlapping franchise, the existing franchisee shall have an opportunity for a hearing on the issue of duplicative franchise issuance. Following a hearing, the City Council shall determine whether the existing franchisee has corrected the circumstances leading to the issuance of the for cause notice and/or whether a wholly or partially duplicative franchise should be issued.



- (b) It shall be unlawful for any person to collect and/or transport solid waste or recyclables in the City without having obtained a franchise to operate. Non-profit religious, charitable, youth or community service organizations collecting and/or transporting recyclable materials shall be exempt from the franchise requirement, provided any such organizations collect and/or transport all recyclable materials in a safe and secure manner to prevent littering of the streets and adjoining areas and transport all waste generated for disposal only at The Dalles Disposal Company Transfer Station or the Wasco County Landfill.
- (c) The franchise requirement shall also exclude persons who transport solid waste in their own vehicle purely as an incidental adjunct to some other established business owned or operated by the person in good faith, or person(s) transporting solid waste or source-separated recyclable materials generated from a residence by that person or household, provided however, that all such solid waste so transported shall be tendered for disposal only at The Dalles Disposal Company Transfer Station or the Wasco County Landfill. All such collection and/or transportation activities shall contain solid waste and/or source-separated recyclable materials hauled in such a manner as to prevent leakage or litter upon the streets, which waste or recyclable materials shall only be transported to and/or disposed at The Dalles Disposal Company Transfer Station or the Wasco County Landfill, with the provision that recyclable materials may also be transported to a facility authorized to accept source-separated recyclable materials.

Section 7. License Fee; Franchise Fee; Granting and Transfer of Licenses and Franchises.

- (a) Any person granted a franchise to engage in the business of collecting and hauling recyclable materials, shall pay an annual fee of \$100.00 for each vehicle used in the pickup and transportation of recyclable material.
- (b) Any person engaging in the business of collecting and hauling collectible solid waste material, in addition to collecting and hauling residential recyclable materials, or any person engaging in the business of collecting and hauling biomedical and infectious waste only, shall first apply to the City for a franchise, and shall pay an annual license fee of \$100.00 per vehicle used to collect and haul recyclable material, or biomedical and infectious waste material. Any franchise granted by the City shall be valid for a period of ten (10) years. In addition to paying the annual license fee, the franchisee shall pay the City of The Dalles a franchise fee calculated at three percent (3%) of the franchisee's gross revenues from the collection of solid waste or biomedical and infectious waste material which may be passed through to customers. The fee shall be payable on either a quarterly basis, on the fifteenth days of April, July, October, and January of each year, or on a monthly basis by the 20th of each month, at the option of the

franchisee. The amount of the annual franchise fee shall be reviewed on an annual basis, and may be increased upon the Council's determination that an increase is in the public interest.

PASSED AND ADOPTED THIS 26TH DAY OF JANUARY, 2004.


Voting Yes, Councilor: Davison, Davis, Tenney, Zukin
Voting No, Councilor: None
Abstaining, Councilor: Broehl
Absent, Councilor: None

AND APPROVED BY THE MAYOR THIS 26TH DAY OF JANUARY, 2004.



Robb Van Cleave, Mayor

Attest:



Julie Krueger, CMC/AAE, City Clerk