



# TUALATIN CITY COUNCIL AND TUALATIN DEVELOPMENT COMMISSION

Monday, May 9, 2011

CITY COUNCIL CHAMBERS  
18880 SW Martinazzi Avenue  
Tualatin, OR 97062

**WORK SESSION** begins at 5:00 p.m.  
**REGULAR MEETING** begins at 7:00 p.m.

**Mayor Lou Ogden**

**Council President Chris Barhyte**  
**Councilor Monique Beikman    Councilor Wade Brooksby**  
**Councilor Frank Bubenik    Councilor Joelle Davis**  
**Councilor Ed Truax**

**Welcome!** By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on its agenda - *Item C*, following Presentations, at which time citizens may address the Council concerning any item not on the agenda, with each speaker limited to three minutes, limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City's website at [www.ci.tualatin.or.us/government/CouncilPackets.cfm](http://www.ci.tualatin.or.us/government/CouncilPackets.cfm), the Library located at 18878 SW Martinazzi Avenue, and on file in the Office of the City Manager for public inspection. Any person with a question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011. Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised *live* the day of the meeting through Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at [www.tvctv.org](http://www.tvctv.org). Council meetings can also be viewed by *streaming video* on the City's website the day of the meeting at [www.ci.tualatin.or.us/government/CouncilPackets.cfm](http://www.ci.tualatin.or.us/government/CouncilPackets.cfm).

Your City government welcomes your interest and hopes you will attend the City of Tualatin Council meetings often.

## PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A **legislative** public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When the Council has finished questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *deny*, or *continue* the public hearing.

## PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A **quasi-judicial** public hearing is typically held for annexations, planning district changes, variances, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

1. Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report.
3. Public testimony is taken:
  - a) In support of the application
  - b) In opposition or neutral
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *approve with conditions*, or *deny the application*, or *continue* the public hearing.

## TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 3 minutes**, subject to the right of the Mayor to amend or waive the time limits.

## EXECUTIVE SESSION INFORMATION

Executive session is a portion of the Council meeting that is closed to the public to allow the Council to discuss certain confidential matters. No decisions are made in Executive Session. The City Council must return to the public session before taking final action.

The City Council may go into Executive Session under the following statutory provisions to consider or discuss: *ORS 192.660(2)(a)* the employment of personnel; *ORS 192.660(2)(b)* the dismissal or discipline of personnel; *ORS 192.660(2)(d)* labor relations; *ORS 192.660(2)(e)* real property transactions; *ORS 192.660(2)(f)* non-public information or records; *ORS 192.660(2)(g)* matters of commerce in which the Council is in competition with other governing bodies; *ORS 192.660(2)(h)* current and pending litigation issues; *ORS 192.660(2)(i)* employee performance; *ORS 192.660(2)(j)* investments; or *ORS 192.660(2)(m)* security issues. **All discussions within this session are confidential.** Therefore, nothing from this meeting may be disclosed by those present. News media representatives are allowed to attend this session (unless it involves labor relations), but shall not disclose any information discussed during this session.



## OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL FOR MAY 9, 2011

---

### A. CALL TO ORDER

Pledge of Allegiance

### B. ANNOUNCEMENTS

1. New Employee Introductions - Hannah Haymond, Library
2. Proclamation Declaring the Week of May 15 - 21, 2011 as Emergency Medical Services Week in the City of Tualatin
3. Proclamation Declaring the Week of May 15 - 21, 2011 as National Police Week in the City of Tualatin
4. Proclamation Declaring May 15 - 21, 2011 Public Works Week in the City of Tualatin
5. Tualatin Youth Advisory Council Presentation

### C. CITIZEN COMMENTS

*This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.*

### D. CONSENT AGENDA

*The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, H) Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.*

1. Resolution No. **5030-11** Awarding the Bid for the SW Apache Drive Waterline Replacement
2. Resolution No. **5031-11** for a Conditional Use Permit for Tualatin Heated Storage, a Dwelling Unit for Watchman and Family in the General Manufacturing (MG) Planning District at 19800 SW Cipole Road (Tax Map 2S1 21DC, Tax Lot 1000) (CUP-11-01)
3. Community Involvement Committee Appointments
4. Approval of the Minutes for the Work Session and Meeting of April 25, 2011

### E. SPECIAL REPORTS

**F. PUBLIC HEARINGS – Legislative or Other**

1. An Ordinance Amending the Extension of the Approval Periods of Certain Architectural Review Decisions Amending TDC 73.056 (PTA-11-03)

**G. PUBLIC HEARINGS – Quasi-Judicial**

**H. GENERAL BUSINESS**

1. Allied Waste Services Rate Increase Request
2. Ordinance No. **1322-11** Amending the Sign Regulations to Allow an Electronic Message Display for a High School Campus in the RL Planning District; Amending TDC 31.060, 38.100 & 38.130-140 (PTA-11-02)

**I. ITEMS REMOVED FROM CONSENT AGENDA**

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

**J. COMMUNICATIONS FROM COUNCILORS**

**K. EXECUTIVE SESSION**

**L. ADJOURNMENT**

# Proclamation

## *Proclamation Declaring the Week of May 15 - 21, 2011 as Emergency Medical Services Week in the City of Tualatin*

WHEREAS Emergency Medical Services is a vital service to the community, the members of emergency medical service teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week. This year's National theme, "Anytime, Anywhere, We'll be there," underscores the commitment and dedication of the EMS providers who serve Oregon; and

WHEREAS access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury. As this year's theme emphasizes, it's important that we publicize safety and honor the dedication of those who provide the day-to-day lifesaving services of medicines' "front line." The brave men and women who serve as EMS providers are often first on the scene of a disaster, a motor vehicle crash or other event that may place them in a hazardous environment; and

WHEREAS emergency medical service teams consist of emergency physicians, emergency room nurses, emergency medical technicians, paramedics, firefighters and emergency medical dispatchers, the members of emergency medical service teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills. Our citizens of Northwest Oregon benefit daily from the knowledge and skill of these highly trained individuals. It is appropriate to recognize the value and accomplishments of emergency medical service providers by designating Emergency Medical Services Week.

NOW THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON that:

The week of May 15 – 21, 2011 is hereby proclaimed Emergency Medical Services Week in the City of Tualatin and everyone in the community is encouraged to observe this week with appropriate programs, ceremonies, and activities.

INTRODUCED AND ADOPTED this 9<sup>th</sup> day of May, 2011

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_

Mayor

ATTEST:

BY \_\_\_\_\_

City Recorder

# Proclamation

## *Proclamation Declaring May 15 - 21, 2011 as National Police Week in the City of Tualatin*

WHEREAS the Congress of the United States of America has designated the week of May 15 – 21, 2011 to be dedicated as “*National Police Week*” and May 15<sup>th</sup> of each year to be “*Police Memorial Day*” in honor of the Federal, State and Municipal Officers who have been killed or disabled in the line of duty; and

WHEREAS it is known that 162 Officers were killed in the line of duty in 2010 and 64 Officers have been killed since January 1, 2011, including two officers from the State of Oregon; and

WHEREAS the City of Tualatin is proud of our law enforcement officers and wish to recognize their commitment to the public safety profession; and

WHEREAS the Tualatin Police Department and officers provide the highest quality services and are committed to the highest professional standards, working in partnership with our citizens, to meet the challenges of reducing crime, creating a safe environment, and improving our quality of life.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, Oregon that:

Section 1. The week of May 15 – 21, 2011 is hereby proclaimed “*Police Week*” in the City of Tualatin to call attention to Tualatin Police Officers for the outstanding service they provided to our community.

Section 2. The City Council also calls upon our citizens to express their thanks to the men and women who make it possible for us to leave our homes and family in safety each day and return to our homes knowing they are protected by men and women willing to sacrifice their lives if necessary, to guard our loved ones, property, and government against all who would violate the law.

INTRODUCED AND ADOPTED this 9<sup>th</sup> day of May, 2011.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_

Mayor

ATTEST:

BY \_\_\_\_\_

City Recorder

# Proclamation

## *Proclamation Declaring the Week of May 15 - 21, 2011 Public Works Week in the City of Tualatin*

WHEREAS public works services in our community are an integral part of our citizens' everyday lives; and

WHEREAS the support of an understanding and informed citizenry is vital to the efficient operation and construction of public works systems such as water, sewer, streets, parks, and drainage; and programs such as building maintenance, park maintenance, emergency management, and solid waste management; and

WHEREAS the health, safety, and comfort of this community greatly depends on design, construction, and maintenance of these facilities and services; and

WHEREAS the quality and effectiveness of these facilities, as well as their planning, design, construction and maintenance is vitally dependent upon the efforts and skill of public works employees and officials; and

WHEREAS the efficiency of the qualified and dedicated personnel who provide public works are materially influenced by the people's attitude and understanding of the importance of the work they perform.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, that:

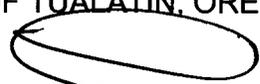
Section 1. May 15 through 21, 2011 is proclaimed as *PUBLIC WORKS WEEK* in the City of Tualatin.

Section 2. Tualatin residents are urged to acquaint themselves with the issues involved in providing our public works services and to recognize the contributions which public works employees and officials make every day to our health, safety, comfort, and quality of life.

INTRODUCED AND ADOPTED this 9<sup>th</sup> day of May, 2011.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_

  
Mayor

ATTEST:

BY \_\_\_\_\_

  
City Recorder

**City Council Meeting**

**Item #: B. 5.**

**Date:** 05/09/2011

---

**Information**

---

**Attachments**

Youth Advisory Council PowerPoint

## Project P.E.A.C.E

(Providing Every Adolescent with Courage and Empathy)

- April 28-May 13 "PEACE Weeks"
  - Video
  - Cyberbully awareness booklets
  - Anti-bullying marketing messages
  - PEACE wall
- Hazelbrook Middle School
- Washington County Commission on Children and Families Grant



# Walk + Bike Challenge Month

May is Walk +  
Bike to School  
Challenge  
Month!



- # kids walked to school on May 4<sup>th</sup>.
- Kids can continue all month!

Tualatin Youth Advisory Council May 2011

# Tualatin Try-athlon

- Saturday, May 21
- Tualatin High School
- Non-competitive kids' triathlon
- Major sponsorship by The Children's Hospital at Legacy Emmanuel
- Fun Zone games and activities
- Low-cost bike helmets and fitting
- Healthy Kid Checks



## Tualatin Try-athlon

Tualatin Youth Advisory Council May 2011

# Movies on the Commons



## Thank you Sponsors!

- Dutch Bros. Coffee
- US West Coast TaeKwonDo
- A Group Real Estate
- Pediatric Dentistry
- Azimuth Communications
- Tualatin Chamber of Commerce
- Community Newspapers

Tualatin Youth Advisory Council May 2011

## Movies on the Commons

- July 2                      How to Train your Dragon
- July 9                        Transformers
- July 16                      Despicable Me
- July 23                      Karate Kid
- July 30                      Shrek Forever After
- August 6                    Aladdin
- August 13                  Toy Story 3
- August 20                  Alice in Wonderland
- August 27                  Tangled





# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL

Date 5-9-11

Recording Secretary M. Smith

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos

**FROM:** Kaaren Hofmann, Civil Engineer  
Mike McKillip, City Engineer

**DATE:** 05/09/2011

**SUBJECT:** Resolution Awarding the Bid for the SW Apache Drive Waterline Replacement

---

### ISSUE BEFORE THE COUNCIL:

Awarding the Apache Drive waterline replacement project to Banzer Construction.

### RECOMMENDATION:

Staff recommends that the Council adopt the attached resolution awarding the Apache Drive waterline replacement project and authorizing the Mayor to execute a contract with Banzer Construction in the amount of \$142,996.

### EXECUTIVE SUMMARY:

- This project is to replace existing asbestos concrete water lines in SW Apache Drive that are starting to deteriorate. All of the existing water meters will also be replaced.
- The Invitation to Bid was published in the Daily Journal of Commerce on March 31, April 6 and 18, 2011.
- The bids for this project were opened on Tuesday, April 26, 2011 at 2:00 p.m.
- Nine proposals were received. After reviewing the submitted paperwork and mathematics, the bid results are as follows:

|                          |           |
|--------------------------|-----------|
| Banzer Construction      | \$142,996 |
| Oregon Underground       | \$143,447 |
| Northwest Earthmovers    | \$153,579 |
| D.M. Excavating          | \$159,812 |
| CivilWorks NW            | \$166,029 |
| Jim Smith Excavating     | \$167,547 |
| David Roberts Excavating | \$175,775 |
| Dunn Construction        | \$183,623 |

|                   |           |
|-------------------|-----------|
| SubCom Excavating | \$204,058 |
|-------------------|-----------|

- Banzer Construction is the lowest responsible bidder at 142,996.
- The Engineer's Estimate for the work was \$157,975.

**OUTCOMES OF DECISION:**

Awarding of the contract will result in the following:

1. Construction of the proposed project will provide replacement of the existing deteriorating water lines.

Not awarding the contract will result in the following:

1. All work on the project will stop until a decision is made to re-bid the project.

**FINANCIAL IMPLICATIONS:**

Funds are available for this project in the Water Operating Fund.

---

**Attachments:**    Resolution

RESOLUTION NO. 5030-11

RESOLUTION AWARDING THE BID FOR THE SW APACHE  
DRIVE WATERLINE REPLACEMENT

WHEREAS the project was advertised in the *Daily Journal of Commerce* on March 31, April 6 and 18, 2011; and

WHEREAS nine proposals were received prior to the close of the bid period on April 26, 2010; and

WHEREAS Banzer Construction submitted the lowest responsible bid for the project in the amount of \$142,996.00; and

WHEREAS there are funds available for this project in the Water Operating Fund.

BE IT RESOLVED BY THE CITY COUNCIL, CITY OF TUALATIN, OREGON, that:

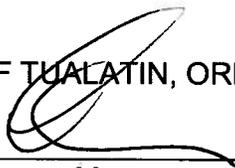
Section 1. The contract is awarded to Banzer Construction.

Section 2. The Mayor and City Recorder are authorized to execute a contract with Banzer Construction in the amount of \$142,996.00.

Section 3. The City Engineer is authorized to execute Change Orders totaling up to 10% of the original contract amount.

INTRODUCED AND ADOPTED this 9<sup>th</sup> day of May, 2011.

CITY OF TUALATIN, OREGON

By  \_\_\_\_\_  
Mayor

ATTEST:

By  \_\_\_\_\_  
City Recorder



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL

Date 5-9-11

Recording Secretary *W. Smith*

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Linda Odermott, Paralegal  
Brenda Braden, City Attorney

**DATE:** 05/09/2011

**SUBJECT:** Resolution for a Conditional Use Permit for Tualatin Heated Storage, a Dwelling Unit for Watchman and Family in the General Manufacturing (MG) Planning District at 19800 SW Cipole Road (Tax Map 2S1 21DC, Tax Lot 1000) (CUP-11-01)

---

### ISSUE BEFORE THE COUNCIL:

Council will consider a resolution that would grant a Conditional Use Permit (CUP) to allow a dwelling unit for watchman and family at the Tualatin Heated Storage site within the General Manufacturing (MG) Planning District at 19800 SW Cipole Road (Tax Map 2S1 21DC, Tax Lot 1000).

### RECOMMENDATION:

Staff recommends that the City Council approve the resolution granting the CUP-11-01.

### EXECUTIVE SUMMARY:

On April 25, 2011 the Council held a quasi-judicial public hearing on CUP-11-01 to decide whether to grant a conditional use permit to the Tualatin Heated Storage facility. At the conclusion of the public hearing, the Council approved the Staff Report with a vote of 6-0; with Councilor Barhyte absent, in favor of granting the CUP and directed Staff to bring back a resolution granting CUP-11-01.

---

**Attachments:** A - CUP-11-01 Resolution

RESOLUTION NO. 5031-11

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TUALATIN HEATED STORAGE, A DWELLING UNIT FOR WATCHMAN AND FAMILY IN THE GENERAL MANUFACTURING (MG) PLANNING DISTRICT AT 19800 SW CIPOLE ROAD (TAX MAP 2S1 21DC, TAX LOT 1000) (CUP 11-01)

WHEREAS a quasi-judicial public hearing was held before the City Council of the City of Tualatin on April 25, 2011, upon the application of Phil Robinson of P.D.R. Designs; and

WHEREAS notice of public hearing was given as required by the Tualatin Development Code by mailing a copy of the notice to affected property owners located within 1,000 feet of the property, which is evidenced by the Affidavit of Mailing marked "Exhibit A," attached and incorporated by this reference, and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS the Council heard and considered the testimony and evidence presented on behalf of the applicant, the City staff, and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing the Council vote resulted in approval of the application [Vote 6-0] with Councilor Barhyte absent; and

WHEREAS based upon the evidence and testimony heard and considered by the Council, the Council makes, enters, and adopts as its findings of fact the findings and analysis in the City staff report, dated April 25, 2011, marked "Exhibit C," attached and incorporated by reference; and

WHEREAS based upon the foregoing Findings of Fact, the Council finds that the applicant has provided sufficient evidence to demonstrate that all of the requirements of the Tualatin Development Code relative to a conditional use have been satisfied and that granting the conditional use permit is in the best interests of the residents and inhabitants of the City, the applicant, and the public generally.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Council grants a Conditional Use Permit to Tualatin Heated Storage that would allow a dwelling unit for watchman and family in the General Manufacturing (MG) Planning District at 19800 SW Cipole Road.

INTRODUCED AND ADOPTED this 9th day of May, 2011.

CITY OF TUALATIN, Oregon

By  \_\_\_\_\_  
Mayor

ATTEST:

By  \_\_\_\_\_  
City Recorder

ITEMS REFERRED TO AS EXHIBITS IN THE FOREGOING ORDINANCE ARE ATTACHED TO THE ORIGINAL. THEY HAVE BEEN OMITTED FROM THE COUNCIL PACKET AS A CONSERVATION MEASURE. IF THESE EXHIBITS NEED TO BE EXAMINED, PLEASE CONTACT THE CITY RECORDER.



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL

Date 5-9-11

Recording Secretary [Signature]

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Maureen Smith, Executive Assistant

**DATE:** 05/09/2011

**SUBJECT:** Community Involvement Committee Appointments

---

### ISSUE BEFORE THE COUNCIL:

Should the City Council approve appointments to various Advisory Committees and Boards.

### RECOMMENDATION:

Staff recommends the City Council approve the Community Involvement Committee (CIC) recommendations and appoint the below listed individuals.

### EXECUTIVE SUMMARY:

The Community Involvement Committee met and interviewed citizens interested in participating on City committees and boards. The Committee recommends appointing and reappointing the following individuals:

| <i>Individuals</i> | <i>Committee / Board</i>  | <i>Term</i>                    |
|--------------------|---------------------------|--------------------------------|
| Del Judy           | Budget Advisory Committee | Partial Term Expiring 12/31/11 |
| Candice Kelly      | Budget Advisory Committee | Partial Term Expiring 12/31/13 |
| Mike Riley         | Budget Advisory Committee | Partial Term Expiring 12/31/13 |

---

### Attachments:



# STAFF REPORT

## CITY OF TUALATIN

\*\*Amended to remove 4/26/11

APPROVED BY TUALATIN CITY COUNCIL

Date 5-9-2011

Recording Secretary M. Smith

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Maureen Smith, Executive Assistant

**DATE:** 05/09/2011

**SUBJECT:** Approval of the Minutes for the Work Session and Meeting of April 25, 2011, and the Special Work Session of April 26, 2011

---

### ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes of the Work Session and Meeting of April 25, 2011, and the Special Work Session of April 26, 2011.

### RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

### FINANCIAL IMPLICATIONS:

There are no financial impacts associated with this item.

---

**Attachments:** A - Work Session Minutes of 4/25/11  
B - Meeting Minutes of 4/25/11  
C - Minutes of Special Work Session of 4/26/11



**OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL WORK SESSION FOR APRIL 25, 2011**

---

**Present:** Mayor Lou Ogden, Councilor Monique Beikman, Councilor Joelle Davis, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Ed Truax

**Absent:** Council President Chris Barhyte

**Staff Present:** City Manager Sherilyn Lombos, City Attorney Brenda Braden, City Engineer Mike McKillip, Police Chief Kent Barker, Operations Director Dan Boss, Community Services Director Paul Hennon, Community Development Director Alice Rouyer, Finance Director Don Hudson, Planning Manager Aquilla Hurd-Ravich, Senior Planner William Harper, Associate Planner Cindy Hahn, Assistant to the City Manager Sara Singer, Management Intern Ben Bryant, Executive Assistant Maureen Smith

**1. CALL TO ORDER**

The work session was called to order by Mayor Ogden at 5:02 p.m.

**2. ITEMS FOR DISCUSSION**

**A. Ice Age Tourism Plan**

City Manager Sherilyn Lombos introduced Yvonne Addington, Larry McClure, and consultant Bill Baker, along with Community Services Director Paul Hennon. They were present to discuss the grant the Tualatin Historical Society received from the Washington County Visitors Association (WCVA) to prepare a basic Tourism Development Plan, to enable Tualatin to participate in the recently announced National Ice Age Trail, administered by the National Parks Service. Looking at possible roles the business community and City could undertake in support of this plan. It identifying opportunities for Tualatin to develop its heritage sites and specimen exhibits to inform visitors about the prehistoric bones and early settler relics found in Tualatin.

The plan was prepared by Bill Baker, world renowned on the subject of branding and marketing destinations for dozens of locations. Mr. Baker presented a Power Point overview of the plan, including maps of the identified Ice Age Trail, current Tualatin Ice Age Heritage resources, and recommendations that Tualatin could establish such as a discovery walk, etc. Mr. Baker said the Ice Age Floods Institute is a non-profit, volunteer-based agency committed to the recognition and presentation of the Ice Age Floods as significant part of the nation and world's natural heritage, and is taking the lead on this project. There are local chapters in each state and the Institute will link directly with the National Park Service. Mr. Baker concluded the PowerPoint with review of the actions currently underway and actions sought from the City.

Discussion followed and whether Tualatin could be recognized as an "ice age center" and how tourism would actually be attracted and generated. Recommended steps and the role of the City was discussed and Mr. Baker said the project has moved fast and a need for an organization of people to come together, and Ms. Addington added the Historical Society felt the plan needed to be brought to the City first.

It was asked and City Manager Lombos said the City clearly will have involvement and continue to work with the Historical Society and Chamber, etc.

**B. Tualatin Centennial Celebration**

Management Intern Ben Bryant gave a presentation on the upcoming centennial of Tualatin's 1913 incorporation, to begin a discussion about if, how, and with what resources should the City engage the community to plan for this monumental milestone.

Discussion on what other cities have done for their centennial celebrations. It was mentioned what Tualatin is currently doing and could "rebrand" what is already being done. Community Services Director Paul Hennon said the Chamber will likely get involved somehow in the planning, but staff wanted to bring this before Council at this point to note that the centennial is around the corner.

It was acknowledged that the City should be the "lead" on the celebration, but noted budgetary constraints, and what could be done to achieve results. City Manager Lombos said staff can put together some type of "working group" and bring back ideas to Council, and more information in the near future.

**C. Highway 99W Land Use/High Capacity Transit Study Modifications**

City Engineer Mike McKillip and Associate Planner Cindy Hahn presented information on the Highway 99W Land Use/High Capacity Transit Study modifications.

Associate Planner Hahn explained in 2010 Tualatin received two Metro Construction Excise Tax (CET) grants. The first was to fund a review of land uses along 99W in Tualatin to better inform the regional discussion relating to High Capacity Transit (HCT) in the 99W Corridor. The second was to fund the exploration of creating an urban renewal district in the Southwest Concept Plan area to fund the construction of 124th and other infrastructure in this area. Maps were displayed showing all of Tualatin and a map outlining the 99W corridor itself. Another map was displayed indicating the expanded project scope of the area.

Staff said it is an opportunity for Council to determine what they want to have planned where, and whether Council wants to keep the scope of the grant to just the 99W corridor or if it could be expanded to look at a larger area for high capacity transit. And whether Council would want to reallocate the funds awarded from both CET grants. It was asked and explained what type of high capacity transit could end up in a particular area based on demographics. It was asked and answered that Sherwood is keeping apprised of the issues but has not taken on the efforts that Tualatin has. Discussion followed about what is being done by other cities.

The alignment and other possible alignments were discussed and what could end up being part of the study. It was explained how the one grant was specifically to look at the feasibility of an urban renewal district, which is not happening now. Density was also discussed and how it would work in an industrial zone in relation to high capacity transit. Some concern was expressed about taking funds away from the Southwest Concept Plan, Staff said ultimately it is a policy decision but transit capacity may be closer than the Southwest Concept Plan, which is a buildout of 20-50 years.

Discussion followed and Council asked if the scope could be narrowed of the proposed area and staff replied they haven't narrowed the scope as yet, but will bring it back to Council when it is done. Consensus of all Council present was to reallocating all the grant funds to what is proposed by staff.

**D. Basalt Creek / West Railroad Planning Update**

Management Intern Ben Bryant presented an update on the Basalt Creek/West Railroad Planning area. A joint meeting of Tualatin and Wilsonville City Councils was held recently and it became clear there were mutual interests of both cities. An agreement is proposed to plan the area, and an analysis scope of 124th Avenue, etc. Mr. Bryant explained the agreement with Washington County is not ready as yet, and explained the purpose of the agreement, which is now an Intergovernmental Agreement (IGA), instead of a Memorandum of Understanding (MOU). The IGA works better for all agencies concerned. The transportation study is beginning, concluding in six

months. The next steps will focus on staff efforts in participating in that study and also doing public outreach.

**3. COMMUNICATIONS FROM COUNCILORS**

Council briefly discussed the process of the vacancy that will be created due to Council President Barhyte's resignation as he is moving out of the city limits.

**4. REVIEW OF MEETING AGENDA**

**H. GENERAL BUSINESS**

Ordinances Adopting a Comprehensive Plan Implementing the Southwest Tualatin Concept Plan; Amending TDC Chapters 1,2,4,7,9,11,12,13,14,37,73, and 75; Adding a New Chapter 64 Manufacturing Business Park (MBP) Planning District; and Amending the Community Plan Map 9-1 (PTA-10-04 and PMA-10-02)

MOTION by Councilor Davis, SECONDED by Councilor Beikman for a first reading by title only. MOTION by Councilor Davis, SECONDED by Councilor Beikman for a second reading by title only. MOTION CARRIED . The poll was unanimous. [Barhyte absent.] MOTION by Councilor Beikman, SECONDED by Councilor Davis to place adoption of the ordinance on the Consent Agenda. MOTION CARRIED .

**5. EXECUTIVE SESSION**

*None.*

**6. ADJOURNMENT**

The Work Session adjourned at 6:56 p.m.

Sherilyn Lombos, City Manager



Maureen Smith / Recording Secretary



## OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR APRIL 25, 2011

---

**Present:** Mayor Lou Ogden, Councilor Monique Beikman, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Ed Truax, Councilor Joelle Davis

**Absent:** Council President Chris Barhyte

**Staff Present:** City Manager Sherilyn Lombos, City Attorney Brenda Braden, City Engineer Mike McKillip, Community Services Director Paul Hennon, Community Development Director Alice Rouyer, Finance Director Don Hudson, Planning Manager Aquilla Hurd-Ravich, Senior Planner William Harper, Assistant Planner Colin Cortes, Maintenance Services Division Manager Clayton Reynolds, Police Captain Larry Braaksma, Assistant to the City Manager Sara Singer, Management Intern Ben Bryant, Executive Assistant Maureen Smith

### A. CALL TO ORDER

Mayor Ogden called the meeting to order at 7:01 p.m.

Pledge of Allegiance was led by Councilor Bubenik.

### B. ANNOUNCEMENTS

1. *Proclamation Declaring May 1-7, 2011 as Public Service Recognition Week in the City of Tualatin*

Councilor Truax read the proclamation proclaiming the week of May 1 - 7, 2011 as Public Service Recognition Week in the City of Tualatin.

2. *National Prescription Drug Take-Back Day Announcement*

Captain Braaksma noted the upcoming National Prescription Drug Take-Back day is on April 30, 2011 from 10:00 a.m. to 2:00 p.m. at the Tualatin Police parking lot.

3. *Walk + Bike to School Day Announcement*

Councilor Beikman noted that May is "Walk + Bike to School" month and gave a brief explanation of the program. There is a "Walk + Bike to School" event scheduled in May with the schools in Tualatin.

4. *124th Avenue Project Update*

City Engineer Mike McKillip gave an update on the status of 124th Avenue project. Washington County is working toward design work and have been contacting citizens for an "interested parties" group. The work is going to

occur in the next year, and City Engineer McKillip recapped where the project will start on 124th Avenue and where it will eventually extend to. Staff will be back before Council as the project progresses and when public meetings are held to keep everyone informed.

**C. CITIZEN COMMENTS**

*This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.*

*Robert Knight, Tualatin Chamber President, and Paul Sivley were present and distributed a letter for the record on the Chamber's views on the importance of citizen involvement, and the hope that the City Council will involve the Chamber as Council works through the process of enhancing citizen involvement.*

*Scott Campbell, 10925 SW Byrom Terrace, and Jennifer Pitt, 10915 SW Byrom Terrace representing the Blake Street neighbors, were present to ask that Council to forward to the Tualatin Parks Advisory Committee (TPARK) for consideration, their request to begin a greenway of the Blake Street area. Ms. Pitt thanked Council and staff for the work that has been done with the Blake Street neighborhood over the past months. It was asked and answered, that although the area is right-of-way (ROW), there is nothing procedurally that would preclude a greenway from being done as it relates to public uses, etc. City Manager Lombos said staff will take the proposal to TPARK for consideration and review of the area for options, etc.*

*Linda Moholt, Tualatin Chamber of Commerce CEO, was pleased to note the Tualatin Chamber of Commerce is 30 years old this month, and the "Celebrate Tualatin" event is Thursday, which recognizes excellence in business and volunteerism throughout the Chamber and community.*

*Ginger Moshofsky, 9310 SW Skokomish Lane, Tualatin, OR was present to introduce to a new community theater, Mask & Mirror, to bring to Tualatin. It will be a non-profit and all volunteer and Ms. Moshofsky noted what they hope to provide and who they will be partnering with. Their goal of having community theaters has been achieved already in other cities that provide live, family theater entertainment.*

**D. CONSENT AGENDA**

*The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, H) Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.*

Item H-1 had first and second readings and added to the Consent Agenda at Work Session.

MOTION by Councilor Monique Beikman, SECONDED by Councilor Joelle Davis to adopt the Consent Agenda as read and amended.

**Vote: 6 - 0 CARRIED**

1. Approval of the Minutes for the Work Session and Meeting of April 11, 2011 and the Special Work Session on April 12, 2011
2. Approval of a New Liquor License Application for Dickie Jo's Burgers
3. Approval of a Change of Ownership Liquor License Application for E.B. Smokey's
4. H-1. Ordinance No. **1320-11** and Ordinance No. **1321-11** Adopting a Comprehensive Plan Implementing the Southwest Tualatin Concept Plan; Amending TDC Chapters 1,2,4,7,9,11,12,13,14,37,73, and 75; Adding a New Chapter 64 Manufacturing Business Park (MBP) Planning District; and Amending the Community Plan Map 9-1 (PTA-10-04 and PMA-10-02)

**E. SPECIAL REPORTS**

*None.*

**F. PUBLIC HEARINGS – Legislative or Other**

1. Amend the Sign Regulations to Allow an Electronic Message Display for a High School Campus in the RL Planning District; Amending TDC 31.060, 38.100 & 38.130-140 (PTA-11-02)

Mayor Ogden opened the public hearing and noted the hearing is "legislative" but will follow the "quasi-judicial" process. Noted the amount of people in the audience and laid out moving through the process of testimony.

Senior Planner Will Harper presented the staff report and entered the entire staff report and additional materials, including additional comments received for the record. The applicant is Kathy Stallkamp, representing the Tualatin High Timberwolf Support Organization (THTSO), a Tualatin High School school activity support group. The Tigard-Tualatin School District has authorized the application and the Facilities Manager and the Tualatin High School Principal are supporting the application by the THTSO group. Senior Planner Harper noted that currently electronic readerboards are only allowed in the Institutional (IN) Planning District, and reviewed the criteria for plan text amendments as it relates to electronic readerboards. The purpose of the proposed amendment is to change the standards for signs in the RL Planning District in order to allow an electronic message display on a freestanding monument sign at the Tualatin High School.

**APPLICANT**

*Kathy Stallkamp, 17635 SW 131st, Tigard, OR, 97224* , representing the Tualatin High Timberwolf Support Organization, and Darin Barnard, principal at Tualatin High School, and resident, were present, along with Tualatin High School junior Jessica Blank.

Ms. Stallkamp reviewed the proposal for an electronic readerboard sign at Tualatin High School. A new electronic readerboard would provide advantages for everyone. Ms. Stallkamp said she started this process in January 2010 in one direction, and in January 2011 went the direction of proposing to change the Tualatin Development Code to allow electronic readerboards in residential. They have worked with a sign company and presented a rendering of what the proposed electronic readerboard sign would look like. Ms. Stallkamp continued with a PowerPoint reviewing each of the concerns of those neighbors opposed to the readerboard.

*Jessica Blank, junior, Tualatin High School* said she has spoken with other students at the school, etc. and said the big concern seems to be who decides what goes on the board and commented how it would benefit the activities and events that are part of the school and community, and it would also be able to provide events in Spanish.

### PROPONENTS

*Tualatin High School students* were present and spoke on their support and benefits for the students and school of the electronic readerboard sign.

*Karen M., 8070 SW Fairway, Wilsonville, OR* Tualatin High School staff, commented this has been a student effort to and has the support of students.

*Christene ?, 20600 SW 90th Avenue, Tualatin, OR* said she also works at the high school and commented about the importance of having the electronic readerboard.

*Marianne Germond, 17935 SW Shawnee Trail, Tualatin, OR* concurs with the comments made in support of the electronic readerboard.

*Jerilyn Lundskog, 9865 SW Iowa Drive, Tualatin, OR* said the electronic readerboard educates and informs, which is important and is efficient, cheaper, etc. Ms. Lundskog wanted to go on record that as a resident of a neighborhood close by the proposed sign, the consensus of the entire community is not against the electronic readerboard.

*Beverly Colisch, 8842 SW Stono Drive, Tualatin, OR* said she lives nearby and couldn't have said it better than the students about the benefits of having the electronic readerboard.

*Michael Schoonmaker, 22711 SW 105th Avenue, Tualatin, OR* said the proposed readerboard helps to convey information and the new sign will enhance the community.

### OPPONENTS

*Steve Pozo, 22875 SW Miami Drive, Tualatin, OR* said he has lived and worked in Tualatin for the past 14 years, and has also volunteered at the high school, and not everyone is in favor of the electronic readerboard. He noted the recent difficulty of his employer/business in attaining a monument sign. He is not in favor of allowing the readerboard sign.

*Lance Lewallen, 22820 SW Miami Drive, Tualatin, OR* , said his main issue

is there is a method in place and to change for one is not fair for the other businesses/schools, and questioned what would stop the city from allowing the same type of sign for the other schools. Mr. Lewallen said Council should look at this as an avenue to encourage the THTSO to proceed with the proper process of proceeding with a zone change.

*Jeff Pellatz, 11000 SW Byrom Terrace, Tualatin, Oregon* said he has lived in Tualatin 25 years or so, and is not in favor of the readerboard, but is in favor of changing the present sign. He does not believe the City of Tualatin should change for just one person as it sends a bad message. There are avenues for the THTSO to take other than the proposal presented.

*Judy Pozo, 22875 SW Miami Drive, Tualatin, OR* said she is in opposition to the readerboard sign. She has lived in Tualatin for 14 years and is proud of how city leaders have managed growth. Ms. Pozo presented a PowerPoint of reasons for not having an "electronic" readerboard, and a proposed compromise of a mechanical readerboard. Her last issue is with regards to safety and has studies she has attained on the safety issues of electronic readerboards. Ms. Pozo concluded her PowerPoint and noted the signatures that were gathered in opposition.

Mr. Lewallen asked what would stop Council from referring this to the citizens of Tualatin to vote on changing the zoning of schools, or is there other avenues for people that want the sign to change the zoning.

#### STAFF RESPONSE

It was asked and City Attorney Braden said it is not known without doing research, whether this is something that could be referred to voters, as there are certain types of issues that cannot be referred. It was asked and explained what the process would be for businesses to apply for an electronic readerboard.

#### COUNCIL DISCUSSION

Councilor Beikman asked what other uses are in allowed in the IN Planning District. Staff replied churches, schools, public utilities, daycare, mostly education and religious uses. Councilor Davis asked for a ballpark amount on the funds that have been raised for the sign, and Ms. Stallkamp replied the project cost is \$27,000 and they have already raised more money than needed. Councilor Davis also asked opponents in the audience if there is an objection to the suggestion made of providing messages in Spanish, and those audience members replied there was not an objection.

Councilor Brooksby asked for explanation of the cost effectiveness. Principal Darin Barnard said a set the cost of the "letters" for the current sign are expensive, and they break on a regular basis. Councilor Brooksby asked what would be the maintenance costs associated with the electronic readerboard sign. Ms. Stallkamp said the cost of a computer, which is used to place the messages electronically on the readerboard, possibly the panels on the board could break but wouldn't be likely for a number of years.

It was asked and replied that the messages that would be placed on the readerboard will be focused on school events, or if the school sponsors an event. It

was asked and explained in the event of vandalism of the sign it is included in the cost of the sign.

Councilor Bubenik asked if they considered the mechanical readerboard, and Ms. Stallkamp said there is so much information that is needed to be conveyed, and Principal Barnard said there is many more events happening at the high school level, as opposed to an elementary school.

It was asked about the electronics of the sign, and the concern of too bright illumination. Staff reviewed the specifications from the staff report and information obtained from another city on an acceptable illumination level.

***A break was taken from 8:58 p.m. to 9:05 p.m.***

Mayor Ogden asked Ms. Pozo about comments about the notion of the safety factor, and noted that ODOT and police agencies use this type of system, if it would be putting people at risk. Ms. Pozo said from the information she obtained from the Internet is the board is a "distraction" for drivers trying to read the sign. Ms. Pozo said the electronic readerboard type of signs look to her to be "Vegas-y" and although the LED is popular, it belongs on a television set or computer not outdoors in a common space shared by the community. It was asked and answered by Ms. Pozo that the flashing signs for school zones are not a favorite of hers, but knows they are there for a reason. Also asked about the petition and how the question was presented about the proposed sign. Ms. Pozo said there was not a question necessarily, but neighbors were shown pictures of a backlit and electronic version of various signs.

Mayor Ogden closed the oral testimony of the hearing.

#### **COUNCIL DELIBERATIONS**

MOTION by Councilor Ed Truax, SECONDED by Councilor Monique Beikman to direct staff to prepare an ordinance approving Plan Text Amendment PTA-11-02 as presented.

**Vote: 5 - 1 CARRIED**

Nay: Councilor Wade Brooksby

#### **G. PUBLIC HEARINGS – Quasi-Judicial**

1. Resolution for a Conditional Use Permit for Tualatin Heated Storage, a Dwelling Unit for Watchman and Family in the General Manufacturing (MG) Planning District at 19800 SW Cipole Road (Tax Map 2S1 21DC, Tax Lot 1000) (CUP-11-01)

Mayor Ogden read language required by legislation before a comprehensive plan or land-use regulation [ORS 197.765(5) and (6)] and opened the public hearing. No bias or ex parte contact noted.

Assistant Planner Colin Cortes presented the staff report and entered the entire staff report into the record. A PowerPoint was presented with the information on the proposed conditional use permit (CUP) to allow for a dwelling unit for a watchman and family at the Tualatin Heated Storage site within the General Manufacturing (MG) Planning District at 19800 SW Cipole Road.

Staff recommends the City Council consider the staff report and supporting attachments and direct staff to prepare a resolution granting CUP-11-01.

#### APPLICANT

*Phil Robinson, PDR Designs, PO Box 2366, Hillsboro, OR, representing the applicant, and Kristie Bollinger, Tualatin Heated Storage, were present and in support of staff's recommendation.*

#### PROPOSERS/OPPONENTS

None.

#### COUNCIL DISCUSSION

Mayor Ogden closed the public hearing

#### COUNCIL DELIBERATION

MOTION by Councilor Ed Truax, SECONDED by Councilor Joelle Davis to direct staff to prepare a resolution granting CUP-11-01.

**Vote:** 6 - 0 CARRIED

### **H. GENERAL BUSINESS**

1. Ordinances Adopting a Comprehensive Plan Implementing the Southwest Tualatin Concept Plan; Amending TDC Chapters 1,2,4,7,9,11,12,13,14,37,73, and 75; Adding a New Chapter 64 Manufacturing Business Park (MBP) Planning District; and Amending the Community Plan Map 9-1 (PTA-10-04 and PMA-10-02)

Ordinance No. 1320-11 and Ordinance No. 1321-11 had first and second readings at Work Session and placed on the Consent Agenda.

### **I. ITEMS REMOVED FROM CONSENT AGENDA**

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

### **J. COMMUNICATIONS FROM COUNCILORS**

Councilor Bubenik noted the successful Tualatin Library Foundation Vine2Wine Event. He also thanked Tualatin Valley Fire & Rescue for a tour he took of the Tualatin Fire House and about their future plans for their involvement in the community.

**K. EXECUTIVE SESSION**

**L. ADJOURNMENT**

MOTION by Councilor Ed Truax, SECONDED by Councilor Joelle Davis to adjourn the meeting at 9:24 p.m.

**Vote: 6 - 0 CARRIED**

Sherilyn Lombos, City Manager



Maureen Smith / Recording Secretary



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL  
Date 5-9-11  
Recording Secretary [Signature]

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Colin Cortes, Assistant Planner  
Alice Rouyer, AICP, Community Development Director

**DATE:** 05/09/2011

**SUBJECT:** An Ordinance Amending the Extension of the Approval Periods of Certain Architectural Review Decisions Amending TDC 73.056 (PTA-11-03)

---

### ISSUE BEFORE THE COUNCIL:

The issue before the City Council is a request for Plan Text Amendment 11-03 (PTA-11-03) to amend Tualatin Development Code (TDC) 73.056(3) to revise the end of the architectural review (AR) issuance date range from June 30, 2009 to September 30, 2009 in order to include AR-09-04 Teton Lot 9 / Premiere Industrial Park and AR-09-05 Anderson Forge & Machine and thereby extend their approval periods.

### RECOMMENDATION:

The Tualatin Planning Advisory Committee (TPAC) voted 6-0 during its April 5, 2011 meeting to recommend that the City Council approve PTA-11-03. Staff recommends the City Council consider the staff report and supporting attachments and direct staff to prepare an ordinance granting PTA-11-03.

### EXECUTIVE SUMMARY:

- This matter is a land use action requiring a legislative public hearing.
- This matter is a Plan Text Amendment (PTA) to the Tualatin Development Code (TDC).
- The applicant is the City on behalf of AR-09-04 Teton Lot 9 / Premiere Industrial Park applicant Chris Walker, architect and project manager with the firm CIDA, and owner Tom Nisbet, who made a written request (Attachment C).
- The request is to amend Tualatin Development Code (TDC) 73.056(3) to revise the end of the architectural review (AR) issuance date range from June 30, 2009 to September 30, 2009 to include AR-09-04 Teton Lot 9 / Premiere Industrial Park and AR-09-05 Anderson Forge & Machine. The new date range would be January 1, 2007 through September 30, 2009. The proposed amending text is in Attachment B.
- On October 26, 2009 the Council adopted PTA-09-06 via Ordinance No. 1291-09. This amendment extended the approval periods of ARs issued on or after January 1, 2007

through June 30, 2009 to a date certain, December 31, 2012.

- The City Council had held a work session on July 27, 2009 and directed staff to prepare draft language that would extend the approval periods of ARs issued on or after January 1, 2007 through June 30, 2009 to a date certain, preferably December 31, 2012 because the Council determined that ARs issued during this time range became troubled by the national economic recession and would have been unable to anticipate the recession.
- Two ARs issued in August and September 2009 are troubled by the national economic recession and have expired following granting of 6-month extensions pursuant to TDC 73.056(2). The applicant for AR-09-04 Teton Lot 9 / Premiere Industrial Park requested an additional extension, prompting this PTA-11-03.
- By granting an extension, the City would allow the two (2) ARs, AR-09-04 and AR-09-05, to remain subject to land use regulations in effect during the issuance date; would not require applicants to comply with present or future land use regulations or regulatory changes by the City or other agencies; and would prevent the City from mandating compliance with newly amended or enacted regulations.
- Regarding newly amended or enacted regulations, there have been no major Clean Water Services (CWS) changes. Regarding City regulations, floodplain regulations are based on best available information, i.e. that from recently revised Federal Emergency Management Agency (FEMA) flood insurance rate maps (FIRMs). Because the FIRMs show that the estimated height of the floodplain in the area of AR-09-04 Teton Lot 9 has risen, upon the applicant seeking to construct the approved site plan, the Engineering Division will ask the applicant to make changes in order to comply with City floodplain regulations.
- A future, separate PTA (PTA-11-05) will address generally the length of land use decision approval periods and the number and lengths of approval extensions.
- Tom Nisbet, owner of the AR-09-04 subject property, attended the TPAC meeting and indicated that this amendment would provide enough time to construct his approved site plan.
- TDC 73.056 establishes the time limit of approval for an architectural review (AR). In the normal course of events, an AR approval is good for a year with allowance for up to one extension of six months upon written request prior to expiration. The amendment would extend the two ARs regardless of staff having granted individual extensions. They would not be eligible for a six-month extension following the date certain.
- AR is an application process by which the City reviews site development and redevelopment in order to foster public health, safety, and welfare.
- AR includes a review through TDC 73 "Community Design Standards" of on-site improvements, primarily within the purview of the Planning Division, and of improvements that connect to and affect public facilities such as streets and sanitary and storm sewers, primarily within the purview of the Engineering Division.
- Because the amendment is a legislative action, the 120-day rule codified in Oregon Revised Statutes (ORS) 227.178(2) is not applicable.
- The applicable local policies and regulations that apply to the amendment are in TDC Section 1.032 Amendments "Burden of Proof."
- Before granting the proposed PTA, the City Council must find that the application meets

the plan amendment criteria listed in TDC 1.032. The Analysis and Findings section of this report (Attachment A) examines the application.

### **OUTCOMES OF DECISION:**

Approval of the PTA request would result in the following:

1. The two (2) architectural reviews (ARs) issued in August and September 2009 – AR-09-04 Teton Lot 9 / Premiere Industrial Park and AR-09-05 Anderson Forge & Machine – are included within the previously granted extension of approval periods via PTA-09-06 to a date certain, December 31, 2012.
2. Clean Water Services (CWS) would likely urge applicants to comply voluntarily with newly amended or enacted CWS regulations.
3. The City allows applicants more time to weather the recession and greater chance to meet their investment-backed expectations by building approved projects.

Denial of the PTA request would result in the following:

1. Status quo remains.
2. The two (2) ARs remain expired.
3. To become approved again, expired ARs would go through re-review and would comply with newly amended or enacted City and agency regulations.
4. Some expired ARs might never be re-approved and built, and this might aggravate the local effects of the national recession.

### **ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the staff recommendation are:

1. Recommend the Council approve the proposed PTA with alterations.
2. Recommend the Council deny the request for the proposed PTA.
3. Continue the discussion of the proposed PTA and return to the matter at a later date.

### **FINANCIAL IMPLICATIONS:**

The FY 2010/11 budget accounts for the cost of City-initiated land use applications.

---

**Attachments:**    A - Analysis and Findings  
                          B - Draft Ordinance  
                          C - Letter from AR-09-04 Applicant 2/11/2011

## **PTA-11-03 ATTACHMENT A:**

### **ANALYSIS AND FINDINGS**

The approval criteria of the Tualatin Development Code (TDC), Section 1.032, must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below:

#### **1. Granting the amendment is in the public interest.**

The national economic recession that officially began in December 2007 affects the regional and local real estate market. More than the number in any of the years prior to 2007, several architectural review (AR) approvals issued from 2007 through mid-2009 are expired or will expire soon. The amendment is in the public interest because it maintains economic development within the city by sustaining development and redevelopment projects. Allowing expiration of AR approvals of these projects would preclude them or, if the applicants remained motivated and financially capable, necessitate payment of fees for re-review of projects and the spending of time and third-party expenses to comply with AR. In the context of recession, greater individual occurrences of expired projects cumulatively would aggravate the local effects of the recession because of less business activity and less employment.

PTA-09-06 extended approvals of ARs issued on or after January 1, 2007 through June 30, 2009 to December 31, 2012 and inadvertently excluded two ARs issued in August and September 2009 affected by the recession, that the City had granted 6-month extensions pursuant to TDC 73.056(2), and that are expired. Including them is in keeping with the intent of PTA-09-06 adopted October 26, 2009 via Ordinance Number 1291-09.

Granting the amendment is in the public interest. Criterion "A" is met.

#### **2. The public interest is best protected by granting the amendment at this time.**

As examined for Criterion A, in the context of recession, greater individual occurrences of expired projects cumulatively at this time would aggravate the local effects of the recession because of less business activity and less employment. It remains uncertain when the recession will end, and so the present is the best time for the amendment. Granting the amendment sends a signal to applicants that despite the recession, the City is helping applicants to meet their investment-backed expectations as much as is feasible. The timeframe of the amendment is also long enough that one could reasonably expect it extends past the end of the recession.

PTA-09-06 extended approvals of ARs issued on or after January 1, 2007 through June 30, 2009 to December 31, 2012 and inadvertently excluded two ARs issued in August and September 2009 affected by the recession, that the City had granted 6-month extensions pursuant to TDC 73.056(2), and that are expired. Including them is in keeping with the intent of PTA-09-06 adopted October 26, 2009 via Ordinance Number 1291-09.

Granting the amendment at this time best protects the public interest.

**3. The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.**

There is no directly applicable objective of the Tualatin Community Plan. However, to put the amendment in context, the amendment covers a type of land use decision – architectural review (AR) – that covers site design and development review. AR implements and comes after future land use and zoning designations and related regulations, combined as “planning districts,” defined in the Tualatin Development Code (TDC). The amendment does not affect or otherwise interfere with the comprehensive plan for the City or its land use planning in general. Because the TDC incorporates the Tualatin Community Plan, an amendment of TDC 73.056 – the section establishing time limits on AR approval – requires a plan amendment. However, the proposed amendment is more akin to a revision of a land development regulation than an amendment to a comprehensive plan and so is best viewed within this context.

The proposed amendment conforms with the objectives of the Tualatin Community Plan. Criterion “C” is met.

**4. The following factors were consciously considered:**

**The various characteristics of the areas in the City.**

The factor is not relevant to the proposed amendment because it does not affect any planning district designation or related regulation.

**The suitability of the areas for particular land uses and improvements in the areas.**

The factor is not relevant to the proposed amendment because it does not affect any planning district designation or related regulation.

**Trends in land improvement and development.**

Taking the national economic recession and its local effects as a trend, the amendment acknowledges and accommodates this trend by attempting to

counteract the additional strain on local business activity posed by the expiration of greater than usual numbers of approved projects.

**The needs of economic enterprises and the future development of the area.**

The amendment directly accommodates the needs of economic enterprises by attempting to counteract the additional strain on local business activity posed by the expiration of greater than usual numbers of approved projects.

**Needed right-of-way and access for and to particular sites in the area.**

The proposed amendment has no relation to any particular planning district and needed rights-of-way or access.

**Natural resources of the City and the protection and conservation of said resources.**

The proposed amendment does not interfere with protection and conservation of natural resources at a land use level. At the site development review level, projects approved through architectural review (AR) addressed the issue.

The amendment could affect natural resources indirectly. The amendment would allow projects with extended approval periods to comply with land use regulations in effect on the date of issuance without having to comply with regulations taking effect after that date. Agencies amend land use regulations every few years, and Clean Water Services (CWS) is an agency that amends its regulations frequently, last updated them in 2007, and has land use authority in conjunction with the City over AR projects. The agency is the stormwater and sewer agency for Washington County and has authority within all of the City. Because the agency has the power to enforce regulations of the Environmental Protection Agency (EPA), environmental protection is a prime mission. If the amendment is granted, CWS would likely urge applicants to comply voluntarily with new and amended regulations. CWS placed conditions of approval on many of these applications based on regulations in effect at the time. Whether applications remain subject to original or newly amended or enacted regulations, CWS regulations will continue to protect and conserve natural resources.

Regarding City regulations not originating within CWS, floodplain is a concern for AR-09-04 Teton Lot 9. Since its approval date of August 5, 2009, the Federal Emergency Management Agency (FEMA) has released and will formally adopt revised flood insurance rate maps (FIRMs). According to the Engineering Division, FIRMs show that the estimated height of the floodplain in the area of Teton Lot 9 has risen. Upon the applicant seeking to construct the approved site plan, the Engineering Division will ask the applicant to comply with City floodplain regulations based on best available information, i.e. that from the revised FIRMs.

Because the floodplain concern is about the 100-year storm flooding development rather than development affecting natural resources, the amendment does not spoil natural resources.

**Prospective requirements for the development of natural resources in the City.**

The consideration of the previous factor applies here also.

**And the public need for healthful, safe, aesthetic surroundings and conditions.**

Granting the amendment would not interfere with provision of healthful, safe, aesthetic surroundings and conditions for the public. Staff approved the subject projects through AR, which addresses this factor. The amendment is limited to extension of approval periods.

**Proof of change in a neighborhood or area**

Neither the applicant nor staff assert proof of change in a neighborhood or area.

**Mistake in the Plan Text or Plan Map.**

Neither the applicant nor staff assert a mistake in the Plan Text or Plan Map.

**5. The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment.**

Because the amendment does not related to residential use, the criterion is not applicable.

**6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.**

Of the 19 statewide planning goals, staff determined that none of the goals are applicable.

While Goal 9 appears applicable – to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens – the amendment is not directly related to the meaning the goal, which is land use planning and zoning that allows for diversified economic enterprises. The amendment is limited to sustaining projects approved through AR and does not affect or interfere with local land use planning that supports economic diversification.

Additionally, the Oregon State Legislature declined to extend of land use approvals during the 2009 regular session.

PTA-09-06 extended approvals of ARs issued on or after January 1, 2007 through June 30, 2009 to December 31, 2012 and inadvertently excluded two ARs issued in August and September 2009 affected by the recession, that the City had granted 6-month extensions pursuant to TDC 73.056(2), and that are expired. Including them is in keeping with the intent of PTA-09-06 adopted October 26, 2009 via Ordinance Number 1291-09.

**7. Granting the amendment is consistent with the Metropolitan Service District' s Urban Growth Management Functional Plan.**

The Urban Growth Management Functional Plan (UGMFP), codified in Metro Code 3.07, neither precludes the amendment nor regulates how a local government extends land use approvals. The criterion is met.

**8. Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.**

Because the amendment does not related to vehicle trip generation at a land use level, the criterion is not applicable.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE EXTENSION OF THE APPROVAL PERIODS OF CERTAIN ARCHITECTURAL REVIEW DECISIONS; AND AMENDING TDC 73.056 (PTA-11-03)

WHEREAS upon the application of the City of Tualatin Community Development Dept., a public hearing was held before the City Council of the City of Tualatin on May 9, 2011, related to a Plan Text Amendment of the TDC; and amending TDC 73.056 (PTA-11-03); and

WHEREAS notice of public hearing was given as required under the Tualatin Development Code by publication on in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked "Exhibit A," attached and incorporated by this reference; and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS the Council conducted a public hearing on May 9, 2011, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing, the Council vote resulted in approval of the application by a vote of [ - ],

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report dated May 9, 2011, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit C," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the City Council finds that it is in the best interest of the residents and inhabitants of the City and the public; the public interest will be served by adopting the amendment at this time; and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 73.056 is amended to read:

Architectural Review approvals shall be void after one year unless:

(1) A building, or grading permit submitted in conjunction with a building permit application, has been issued and substantial construction ~~pursuant thereto~~ pursuant to the permit and an inspection has been performed by a member of the Building Division; or

(2) An extension is requested by the applicant of the Architectural Review and approved by the Community Development Director and City Engineer. Before approving an extension the Community Development Director and City Engineer shall find that there have been no significant changes in any ordinances, standards, regulations or other conditions affecting the previously approved project ~~so as to~~ that would warrant its resubmittal. The following conditions shall also apply:

(a) An extension request shall be submitted prior to the initial one year expiration, and

(b) No more than one 6-month extension shall be granted for a project receiving Architectural Review approval.

(3) The Architectural review approval was granted on or after January 1, 2007 through ~~June~~ September 30, 2009. In those cases approval shall be extended to December 31, 2012. Such approval shall not be eligible for extension under TDC 73.056(2). This subsection (3) shall terminate on January 2, 2013, without further action of the City Council.

INTRODUCED AND ADOPTED this 23rd Day of May, 2011.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

ATTEST:

BY \_\_\_\_\_  
City Recorder

ITEMS REFERRED TO AS EXHIBITS IN THE FOREGOING ORDINANCE ARE ATTACHED TO THE ORIGINAL. THEY HAVE BEEN OMITTED FROM THE COUNCIL PACKET AS A CONSERVATION MEASURE. IF THESE EXHIBITS NEED TO BE EXAMINED, PLEASE CONTACT THE CITY RECORDER.



15895 SW 72ND AVE  
SUITE 200  
PORTLAND, OR 97224  
PHONE: 503.226.1285  
FAX: 503.226.1670  
INFO@CIDAINC.COM  
WWW.CIDAINC.COM

City of Tualatin  
Community Development Department  
Attn: Eric Underwood  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062

February 11, 2011

RE: Request for Architectural Review Extension  
Architectural Review#09-04: Teton Lot #9 / Premiere Industrial Park  
CIDA Project Number: 080091.01

Dear Eric:

At the request of the property owner, Tom Nisbet, we are writing this letter to request additional consideration related to our expired Architectural Review approval. Per your email on February 3, 2011 we understand that the City of Tualatin is limited to one extension of AR Approvals, which was previously received. However, in light of the economic conditions limiting project funding throughout the state as well as other factors described below we would like to request this extension be reconsidered.

In June of 2009 the City of Tualatin granted an extension to the approval period for AR's with approval through the end of June, 2009. This extension ran through 2012, a considerable extension to the existing six month limit. Our project missed this deadline by less than two months. Obviously the economic situation did not end in June of 2009 and continues to have an impact on development to this day. It is evident that the City realized that economic conditions conducive to development were further off, thus the extension to the end of 2012.

The Teton development could have been submitted sooner had the site not been subject to additional scrutiny regarding the wetland impacts by both the City of Tualatin and Clean Water Services. The coordination by both these jurisdictions, as well as the owner and design team regarding the impacts to the site by the wetland setbacks and base flood elevation played a large role in the timing of our submittal for AR approval. Similarly these site impacts have caused additional issues after we received AR approval in August of 2009. Mitigating these site issues including balancing Clean Water Services and City of Tualatin requirements and interpretation of new base flood elevations as well as geotechnical issues onsite have been issues that the property owner has been working through since AR approval was received.

We have experienced several jurisdictions around the Portland Metro area providing extension opportunities similar to what we are requesting for this project. Washington County, City of Hillsboro and City of Wilsonville are three examples where CIDA has current projects that received multiple yearly extensions, with yearly application, or multi-year extensions that are guided to seeing projects developed rather than expire due to unfavorable economic conditions.

Tom is actively looking at funding and marketing the property. Starting the AR process over would greatly impact his ability to market and develop the property. The time involved and the additional costs will detract from these efforts, increasing future lease rates beyond market limits and put the property at a higher likelihood of never being developed.

We would like to request the opportunity to discuss the project further including potential avenues allowing this development to move forward. As I mentioned, Tom is still active in his desire to get this project constructed and allowing the AR approval to extend into 2012 would allow him to do so.

Thank you for your time. We look forward to talking with you more and seeing this project come to fruition. Please call if you need additional information or have further questions.

Sincerely,

Chris Walker  
Architect / Project Manager

CC: Aquilla Hurd-Ravich, Acting Planning Manager; Colin Cortes, Assistant Planner; Sherilyn Lombos, City Manager  
Tom Nisbet – Property Owner  
Jennifer Beattie, File – CIDA

ARCHITECTURE  
ENGINEERING  
PLANNING  
INTERIORS  
LANDSCAPE

Submitted for the record - Item  
H-1 by Allied Waste  
at May 9, 2011  
Council meeting



May 9, 2011

Honorable Lou Ogden, Mayor  
Members of Tualatin City Council

RE: Allied Waste Services' Rate Request

Allied Waste Services of Clackamas and Washington Counties requests this price increase to ensure our capability to deliver at the highest standards of the solid waste industry the guaranteed services specified by City Council.

Allied's aggregate **rate of return at December 31, 2009** from revenue received was **7.5%** to perform waste collection services. Today, going forward **without this price increase**, Allied's rate of return from revenues received will be **4.1%** and will decline further due to a \$3.68/ton Metro rate increase effective August 1, 2011. This expected level of return on revenue is based on financial data reviewed with City's staff.

Our **operating income projection from 2009 through 2011 without this price increase will decline 42%**. This loss would be greater had we not been aggressive in obtaining the **best prices** available at the time of sale for the **commodities** we recovered from the waste collected in Tualatin. We are now learning the price for metal, the highest priced commodity, may be softening due to the recent calamity in Japan. If this happens, there would be a decline in revenues Allied relies upon to offset part of cost of service.

Our **operating costs**, on the other hand, **will increase by 8.4%** during this same time frame as the 42% decline in revenue. Unlike businesses operating in an environment without direct operational government regulations, Allied is limited in cost-containment options for mitigating profit erosion. This limitation places many of our operating costs outside effective management control and are reflected in the costs Allied must incur to meet our guaranteed level of service in the City.

Notwithstanding Allied's inability to significantly contain all costs, we have been managing those costs where we have flexibility to exercise control; labor costs for collection of waste and salaries – general administrative costs.

**Labor costs** incurred to collect waste should increase 10.8% from our last price increase in 2008 and the effective date of this request. The primary reason for the increase in labor costs is the cost of health care, notwithstanding Allied has a capped benefits health care plan. Allied contained part of employee health care cost increase by reducing from 17 to 15 the number of employees collecting waste at the start of 2009. A decline of approximately 5,000 tons of waste generated in Tualatin since the last price increase allowed Allied to reroute its collection trucks without changing service levels.

Salaries and **general administrative costs** do not impact this request since these costs declined slightly from October 1, 2008 and the effective date of this price increase.

Allied Waste Services owns and operates a transfer station and material recovery facility in the City of Wilsonville. Allied transports all waste collected in Tualatin to this facility, thereby saving ratepayers approximately \$250,000 annually in collection costs.



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL  
 Date 5-9-2011  
 Recording Secretary [Signature]

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Kathy Kaatz, Program Coordinator  
 Daniel J. Boss, Operations Director

**DATE:** 05/09/2011

**SUBJECT:** Allied Waste Services Rate Increase Request

**ISSUE BEFORE THE COUNCIL:**

Issue before Council is a request from Allied Waste Services of Clackamas and Washington County, for a rate increase for the collection of solid waste and recyclables with an effective date of June 1, 2011.

**RECOMMENDATION:**

Council to review information provided and direct staff to proceed with Council's final decision on the proposed rate increase request from Allied Waste Services of Clackamas and Washington Counties.

**EXECUTIVE SUMMARY:**

- Allied Waste Services has the exclusive franchise in the City to provide solid waste and recycling services. The City's goal is to provide good quality services at a reasonable rate to our citizens while allowing the franchised hauler to keep a reasonable rate of return on profit.
- According to Allied Waste Services Annual Report received in March of 2011, their overall profit was 6.92% for 2010.
- We have had very few complaints over the last year. Allied has been good to work with from a staff perspective.

Allied Waste Services rate history for the City of Tualatin:

| YEAR         | RATE LEVEL   | SERVICE LEVEL  |
|--------------|--|--|
| 2011 Poposed | Rate increase - 2.17%<br>Rate increase - 7.32%<br>Rate increase - 10.39% | Residential<br>Commercial<br>Industrial              |
| 2008         | Rate increase - 3%<br>Rate increase - 8%<br>Rate increase - 16%          | Residential<br>Multi-Family/Commerical<br>Industrial |

|      |   |  |
|------|---|--|
| 2005 | Rate increase - 10%<br>Rate increase - 10%<br>Rate increase - 20% | Residential<br>Multi-Family/Commerical<br>Industrial |
| 1998 | Rate reduction - 3%<br>Rate reduction - 19%                       | Residential<br>Multi-Family/Commerical               |
| 1997 | Rate reduction - 5%   | Residential  |

- The proposed increase is based upon the information below which was provided by Allied Waste Services of Clackamas and Washington County.

1. This rate proposal is driven by increased costs of disposal, labor and fuel.
2. Disposal costs comprise 44% of the cost structure; between 2008 and 2010 Allied has seen an increase of 13% disposal cost per ton.
3. Labor and fuel together comprise 24% of the total cost structure; labor costs have increased an average of over 4% per year, primarily in health insurance costs increases.
4. Fuel cost per gallon has varied widely over the last six years, between a low of \$2.56/per gallon in 2005 and 2009, to a high of \$3.87 per gallon in 2008. Currently the average is \$3.65 per gallon.

- In an attempt to mitigate this increase on the Allied customers in Tualatin, the proposed rates consider:

1. Maintaining a nearly level rate of return for 2011 as compared to previous years.
2. Minimal increases to smaller residential carts allowing recycling program participants the ability to reduce the garbage cart size.
3. Rates comparable to other local cities with the same levels of service.

### **OUTCOMES OF DECISION:**

If Council approves the proposed rate increase, accounts would see the following rate increases:

Residential = 2.17%  
Commercial = 7.32%  
Industrial = 10.39%

Based upon Council direction, staff would be prepared to bring back a resolution authorizing a rate increase to the meeting on June 13, 2011 directing this change in rates effective as of that date.

Attached is a copy of the current franchise agreement outlining the services currently provided by Allied Waste Services of Clackamas and Washington Counties.

### **FINANCIAL IMPLICATIONS:**

The City currently receives a franchise fee of 3% of revenue.

At the new rate, the average monthly Tualatin residential cart service will increase from \$23.05 to \$23.51, an increase of \$.46 per month. The average monthly Tualatin commercial/multi-family service would increase from \$23.75 per month to \$23.99 per month, an increase of \$.24 per month. The average monthly industrial/commercial container service would increase from \$95.00 per haul to \$104.90, increasing \$9.90.





**Allied Waste – City of Tualatin**  
**Service & Pricing Proposal**  
**April 27, 2011**





April 27, 2011

Mayor Ogden and City Council Members:

Enclosed is a request for a rate adjustment for the waste collection services provided by Allied Waste in the City of Tualatin. We are requesting a June 1, 2011 effective date.

We have requested and received three rate increases in the last six years. Two of the increases were the result of general expense increases (9/1/05 and 10/1/08), the third increase (4/1/09) funded a significant improvement in the recycling services offered to residential customers.

This rate proposal is driven by increased costs of disposal, labor, and fuel. Specifically:

- Disposal costs comprise 44% of our cost structure; between 2008 and 2010 we have seen an increase of 13% in the disposal cost per ton.
- Labor and fuel together comprise 24% of our total cost structure; our labor costs have increased on average of over 4% per year, primarily in health insurance costs increases.
- Fuel cost per gallon has varied widely over the last six years, between a low of \$2.56/7 per gallon in 2005 and 2009, to a high of \$3.87 per gallon in 2008. Currently we are averaging \$3.65 per gallon.

We have included the following information in this request:

- Financial statement results for the past two years and projected 2011 results
- Analysis of revenue and cost structures of the operation
- Customer base breakdown for the City
- A comparison of current and proposed rates with those of other communities
- Proposed comprehensive rate tables & service conditions

In an attempt to mitigate this increase on our customers in Tualatin, our proposed rates consider:

- Maintaining a nearly level rate of return for 2011 as compared to previous years
- Minimal increases to smaller residential carts allowing recycling program participants the ability to reduce the garbage cart size
- Rates comparable to other local cities with the same levels of service

We appreciate your consideration of our request and look forward to your questions and comments. We are available to meet with you in person if you have any questions. You can reach me at (541)231-7414.

Best regards,

Carol Dion  
General Manager  
Allied Waste of Washington & Clackamas County



**Allied Waste Services - City of Tualatin**  
**2010 Actual Results & 2011 Projections**

| <b>Summary Financials</b>                | <b>2009</b>      | <b>2010</b>      | <b>2011</b><br>(no increase) | <b>2011</b><br>(6/1/11 increase) | <b>2011-12</b><br>(12 mo. annualized) |
|--|------------------|------------------|------------------------------|----------------------------------|---------------------------------------|
| Revenue                                  | 5,852,124        | 6,039,108        | 6,089,860                    | 6,241,015                        | 6,348,983                             |
| Cost of Operations                       | 4,635,731        | 4,867,488        | 5,060,783                    | 5,066,840                        | 5,070,079                             |
| <b>Gross Profit</b>                      | <b>1,216,393</b> | <b>1,171,620</b> | <b>1,029,077</b>             | <b>1,174,175</b>                 | <b>1,278,904</b>                      |
| Salaries, General and Administrative     | 778,911          | 753,568          | 776,813                      | 776,813                          | 776,813                               |
| <b>Operating Income</b>                  | <b>437,482</b>   | <b>418,052</b>   | <b>252,264</b>               | <b>397,362</b>                   | <b>502,091</b>                        |
| <b>Income</b>                            | <b>437,482</b>   | <b>418,052</b>   | <b>252,264</b>               | <b>397,362</b>                   | <b>502,091</b>                        |
| <b>Income as a Percentage of Revenue</b> | <b>7.5%</b>      | <b>6.9%</b>      | <b>4.1%</b>                  | <b>6.4%</b>                      | <b>7.9%</b>                           |

|  | <b>Current Rate</b> | <b>Proposed Increase</b> | <b>Proposed Rate</b> |
|--|---------------------|--------------------------|----------------------|
| 20 gallon residential cart service (monthly) | 19.75               | + .30                    | 20.05                |
| 35 gallon residential cart service (monthly) | 23.05               | + .45                    | 23.50                |
| 60 gallon residential cart service (monthly) | 30.25               | + .75                    | 31.00                |

| <b>Cost of Operations</b>                     | <b>2009</b>      | <b>2010</b>      | <b>2011</b><br>(no increase) | <b>2011</b><br>(6/1/11 increase) | <b>2011-12</b><br>(12 mo. annualized) |
|---|------------------|------------------|------------------------------|----------------------------------|---------------------------------------|
| Labor   | 831,817          | 918,241          | 932,015                      | 932,015                          | 932,015                               |
| Insurance                                     | 210,665          | 311,189          | 318,969                      | 318,969                          | 318,969                               |
| Fuel  | 159,548          | 214,805          | 268,506                      | 268,506                          | 268,506                               |
| Repairs and Maintenance                       | 321,259          | 326,364          | 331,259                      | 331,259                          | 331,259                               |
| Depreciation                                  | 315,862          | 363,605          | 369,059                      | 369,059                          | 369,059                               |
| Disposal                                      | 2,517,971        | 2,458,554        | 2,564,272                    | 2,564,272                        | 2,564,272                             |
| Rent & Lease Expenses                         | 92,724           | 97,413           | 98,874                       | 98,874                           | 98,874                                |
| Truck Licenses and Fees                       | 6,168            | 12,557           | 12,745                       | 12,745                           | 12,745                                |
| Franchise Fees                                | 132,906          | 143,130          | 143,130                      | 149,187                          | 152,426                               |
| Other Miscellaneous Ops Costs                 | 46,811           | 21,630           | 21,954                       | 21,954                           | 21,954                                |
| <b>Total Cost of Operations</b>               | <b>4,635,731</b> | <b>4,867,488</b> | <b>5,060,783</b>             | <b>5,066,840</b>                 | <b>5,070,079</b>                      |
| <b>Salaries, General &amp; Administrative</b> |                  |                  |                              |                                  |                                       |
| Customer Service & Administrative Labor       | 320,907          | 259,795          | 263,692                      | 263,692                          | 263,692                               |
| Bad Debt Expenses                             | 22,377           | 15,416           | 15,416                       | 15,416                           | 15,416                                |
| Corporate Overhead                            | 267,178          | 330,138          | 335,090                      | 335,090                          | 335,090                               |
| Other Sales, General & Administrative         | 168,449          | 148,219          | 162,615                      | 162,615                          | 162,615                               |
| <b>Total Salaries, General, &amp; Admin</b>   | <b>778,911</b>   | <b>753,568</b>   | <b>776,813</b>               | <b>776,813</b>                   | <b>776,813</b>                        |



*What does \$1 of garbage service cover?*

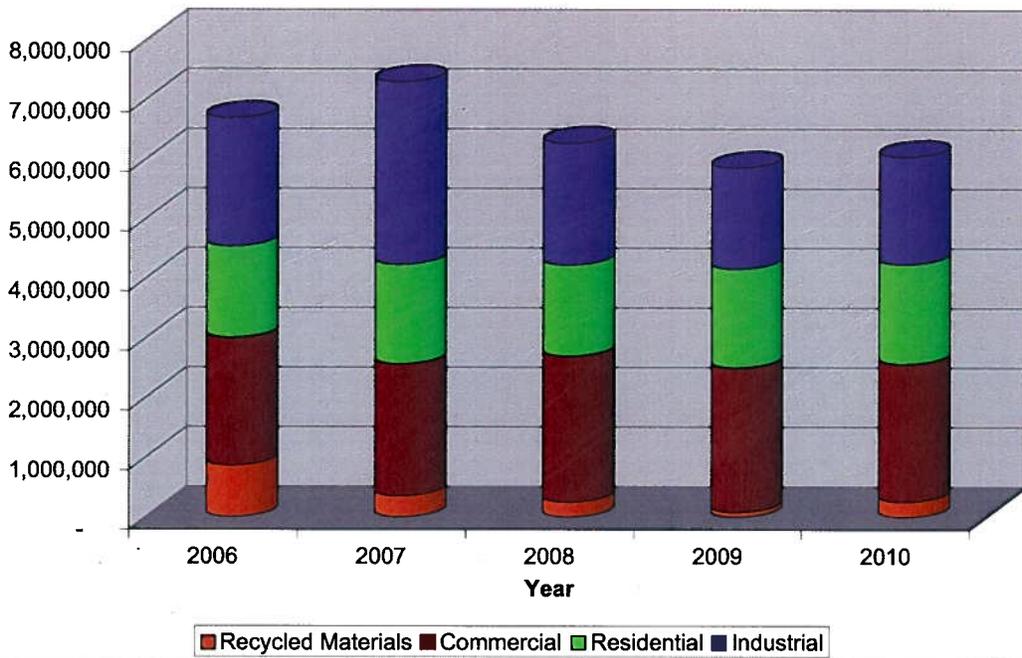
|   |           |                    |
|---|-----------|--------------------|
| <b>\$1 paid toward your monthly service</b> | <b>\$</b> | <b>1.00</b>        |
| <i>Disposal</i>                             |           | <i>0.41</i>        |
| <i>Labor</i>                                |           | <i>0.16</i>        |
| <i>Repairs &amp; Maintenance</i>            |           | <i>0.06</i>        |
| <i>Fuel</i>                                 |           | <i>0.04</i>        |
| <i>Insurance</i>                            |           | <i>0.06</i>        |
| <i>Franchise Fees</i>                       |           | <i>0.03</i>        |
| <i>Customer Service Costs</i>               |           | <i>0.05</i>        |
| <i>Truck &amp; Container Replacement</i>    |           | <i>0.07</i>        |
| <i>Miscellaneous</i>                        |           | <i>0.07</i>        |
| <i>Income Taxes</i>                         |           | <i>0.04</i>        |
| <b>Net Profit</b>                           | <b>\$</b> | <b><u>0.03</u></b> |





### Revenue Components

2006-2010 Actuals

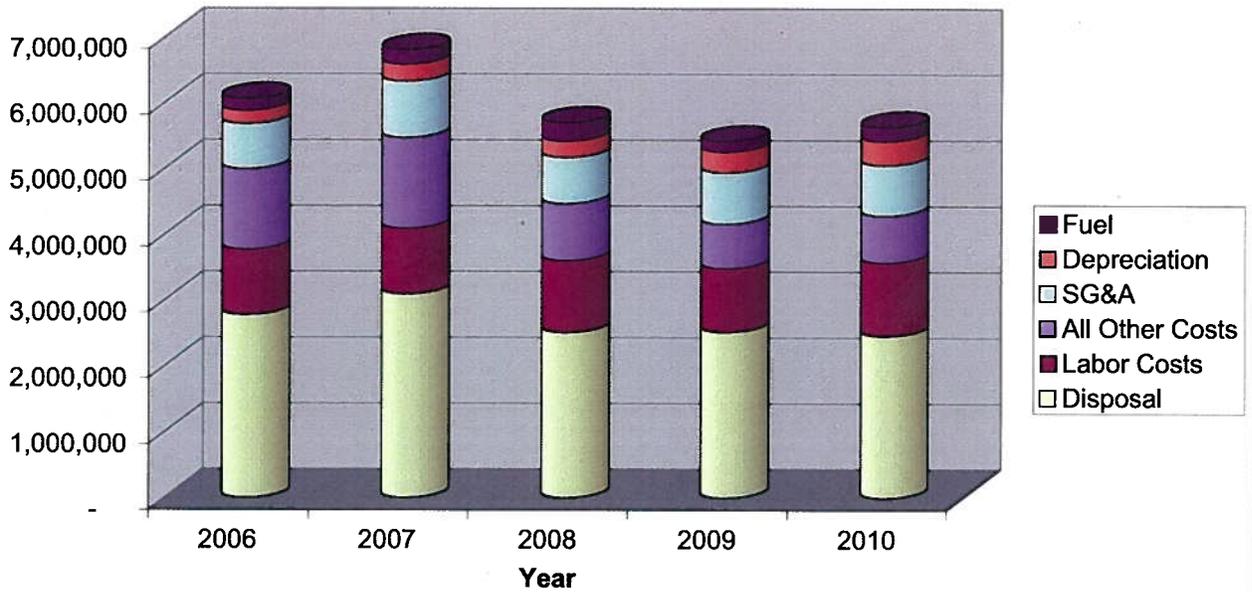


In 2006, recycled materials comprised 13% of the revenue base and contributed significantly to maintaining low rates. This figure reached a low of 1% in 2009 and is currently at 4% of total revenues. These volatile revenues, currently at \$254K for 2010, make up 61% of net income. All three of our core lines of business are also showing declines over the past five years as construction has slowed and customers shift to smaller sized containers.



### Cost Structure Components

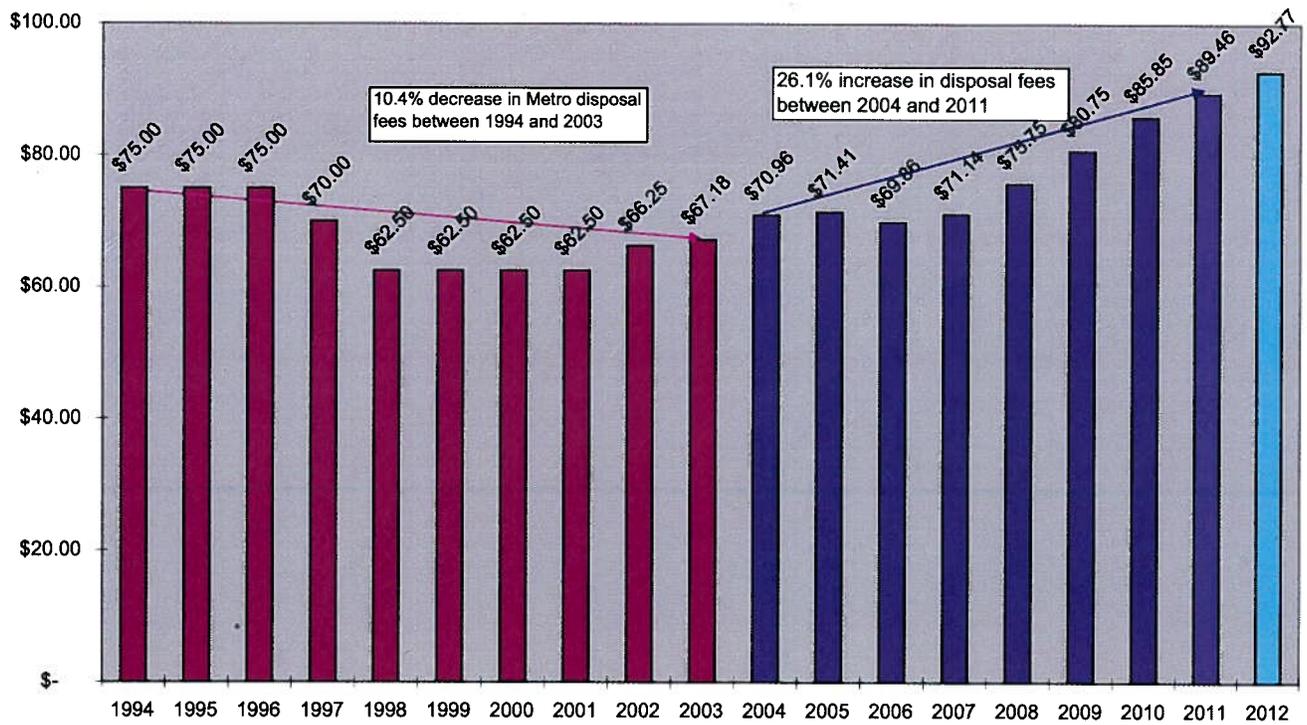
2008-2010 Actuals



Disposal, including Metro's regional system fee and excise tax to fund the regional government and programs comprises 44% of the current cost structure. Labor and Fuel make up an additional 24%.



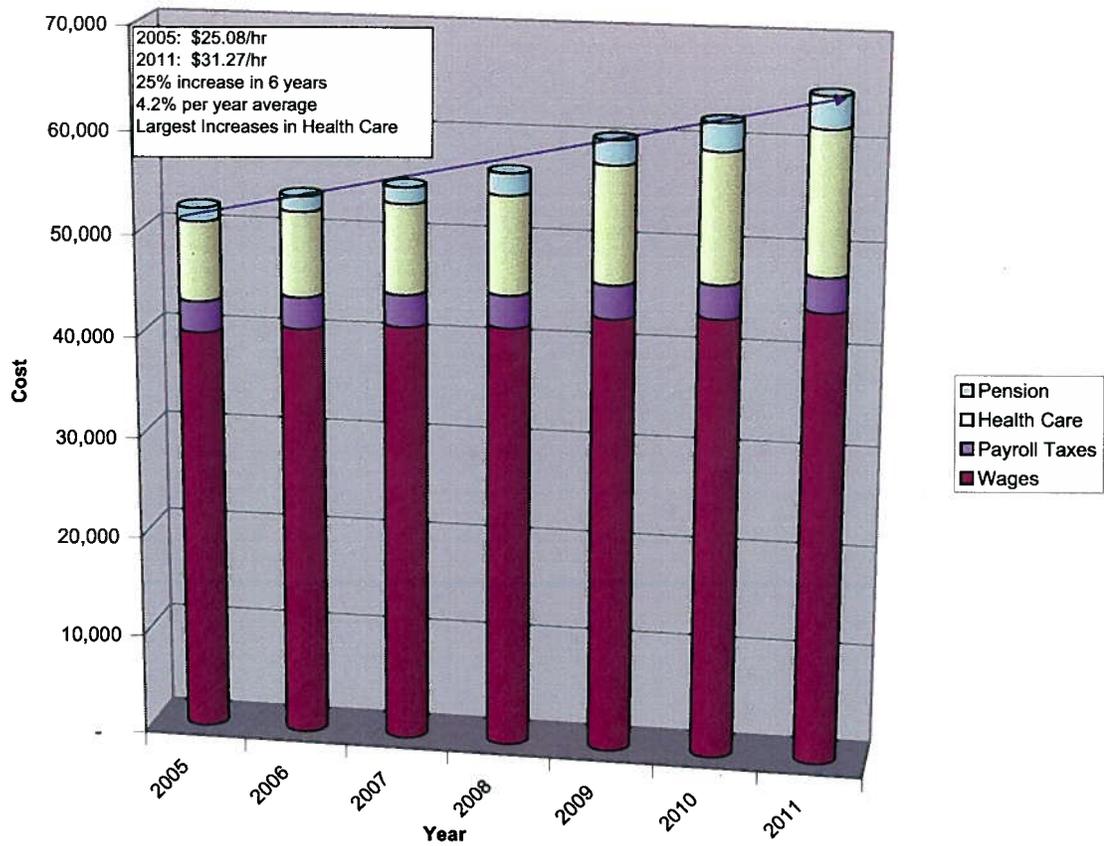
### Metro Disposal Fees Per Ton





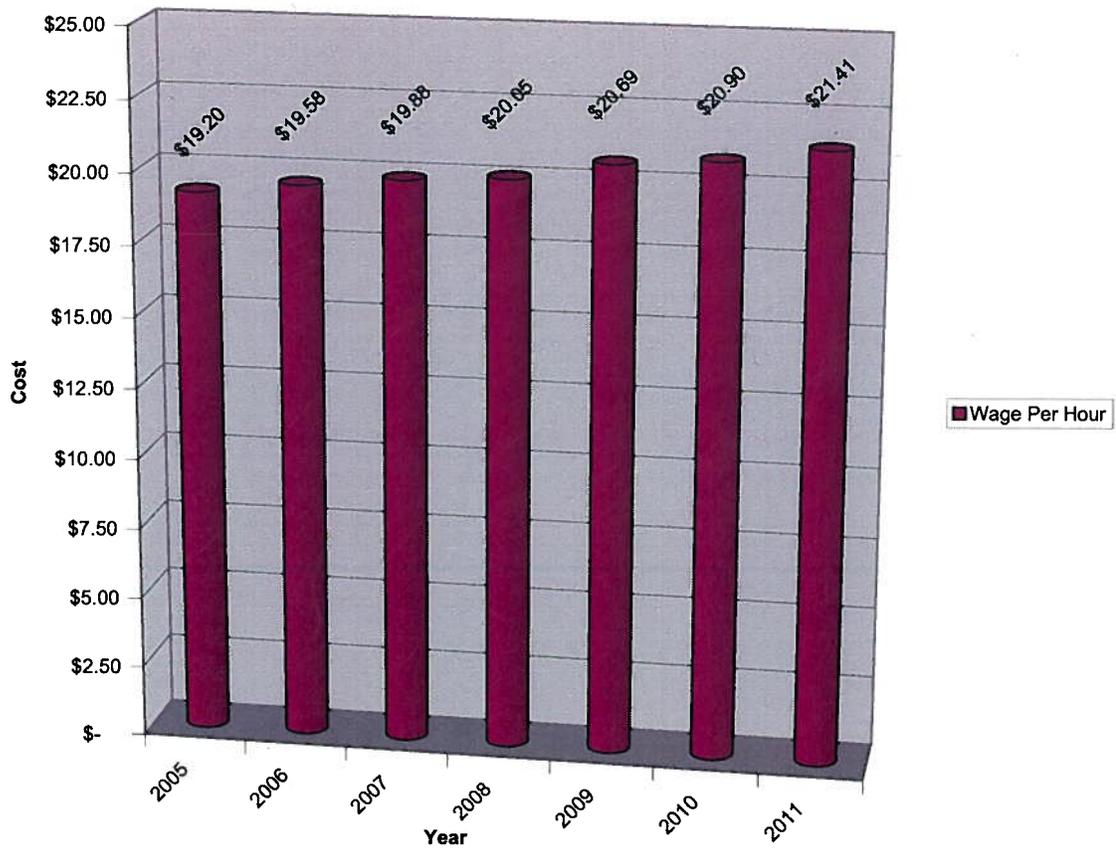
**ALLIED  
WASTE**

**Labor Costs Per Year (2005 - 2011)**



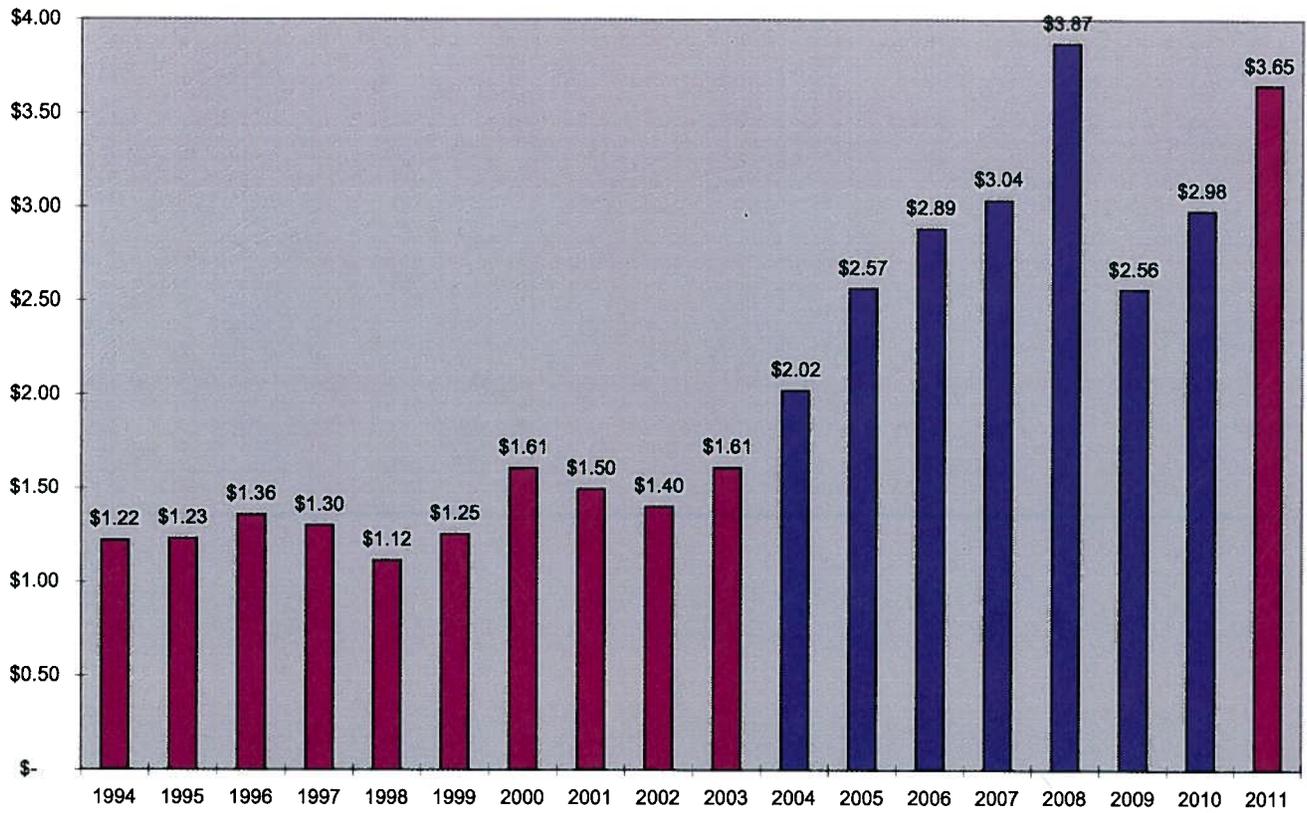


Driver Wage Per Hour (2005 - 2011)





Average Diesel Fuel Price Per Gallon  
1994 - 2010 with current 2011





**Allied Waste Customer Base in Tualatin**

|                                      | <b>Current</b>         | <b>2009</b>            | <b>2008</b>            |
|--------------------------------------|------------------------|------------------------|------------------------|
| <b>Residential Customer Base</b>     | <b>Container Count</b> | <b>Container Count</b> | <b>Container Count</b> |
| 20 gal                               | 498                    | 470                    | 446                    |
| 35 gal                               | 3194                   | 3165                   | 2987                   |
| 65 gal                               | 1806                   | 1912                   | 2064                   |
| <b>Total Residential Carts</b>       | <b>5498</b>            | <b>5547</b>            | <b>5497</b>            |
| <b>Commercial Customer Base</b>      | <b>Container Count</b> | <b>Container Count</b> | <b>Container Count</b> |
| Commercial Carts                     | 676                    | 660                    | 535                    |
| 1 yd Commercial Containers           | 60                     | 64                     | 65                     |
| 1.5 yd Commercial Containers         | 49                     | 47                     | 40                     |
| 2 yd Commercial Containers           | 125                    | 106                    | 104                    |
| 3 yd Commercial Containers           | 109                    | 105                    | 110                    |
| 4 yd Commercial Containers           | 86                     | 95                     | 98                     |
| 5 yd Commercial Containers           | 19                     | 20                     | 18                     |
| 6 yd Commercial Containers           | 89                     | 85                     | 86                     |
| 8 yd Commercial Containers           | 59                     | 52                     | 77                     |
| <b>Total Commercial Containers</b>   | <b>1272</b>            | <b>1234</b>            | <b>1133</b>            |
| <b>Industrial Hauls</b>              | <b>Annual Hauls</b>    | <b>Annual Hauls</b>    | <b>Annual Hauls</b>    |
| 10 yd drop box                       | 217                    | 233                    | 268                    |
| 20 yd drop box                       | 2073                   | 2213                   | 2641                   |
| 30 yd drop box                       | 1444                   | 1825                   | 2140                   |
| 40 yd drop box                       | 1187                   | 1306                   | 1583                   |
| <b>Total Annual Industrial Hauls</b> | <b>4921</b>            | <b>5577</b>            | <b>6632</b>            |



City of Tualatin  
 Pricing Proposal Snapshot  
 Comparative Rates With Similar Cities  
 Proposed Rate Adjustment on 6/1/11

**Sample Current and Proposed Rates:**

| Service Level            | Current Rate | Proposed Rate |
|--------------------------|--------------|---------------|
| 20 gallon cart           | \$19.75      | \$20.05       |
| 35 gallon cart           | \$23.05      | \$23.50       |
| 60 gallon cart           | \$30.25      | \$31.00       |
| 2 yard container, weekly | \$135.50     | \$144.30      |
| 6 yard container, weekly | \$332.80     | \$359.40      |
| 30 yard drop box         | \$109.50     | \$120.45      |
| 60 gallon comm. Cart     | \$23.75      | \$24.00       |

**Comparative rates in nearby communities:**

| Service Level            | Wilsonville | Lake Oswego | Sherwood | Washington Co. | Clackamas Co. |
|--------------------------|-------------|-------------|----------|----------------|---------------|
| 20 gallon cart           | \$20.80     | \$18.08     | \$24.55  | \$17.80        | \$23.90       |
| 35 gallon cart           | \$23.05     | \$23.92     | \$26.59  | \$21.69        | \$27.45       |
| 60 gallon cart           | \$29.90     | \$38.16     | \$34.04  | \$31.48        | \$36.10       |
| 2 yard container, weekly | \$149.15    | \$180.56    | \$147.57 | \$126.49       | \$141.73      |
| 6 yard container, weekly | \$419.55    | \$405.37    | \$341.02 | \$296.59       | \$327.91      |
| 30 yard drop box         | \$136.25    | \$124.89    | \$111.29 | \$132.00       | \$127.00      |
| 60 gallon comm. Cart     | \$23.30     | \$35.04     | \$23.99  | \$28.99        | \$34.05       |



**TUALATIN PROPOSED RATE INCREASE 6/01/2011**

**Residential**

All Rate Changes are noted in Red

**RESIDENTIAL RATES PROPOSED FOR A 2.17% INCREASE**

**Residential (once per week service)**

|           | Current           | Proposed |
|-----------|-------------------|----------|
| 20 gallon | \$19.75 per month | \$20.05  |
| 32 gallon | \$23.05 per month | \$23.50  |
| 60 gallon | \$30.25 Per month | \$31.00  |

**Please Note:** There is a \$25 Service interrupt fee for invoices 60-days outstanding  
A late fee of 1.5% will be applied to all past due amounts

**Limited Services**

|                                | Current           | Proposed |
|--------------------------------|-------------------|----------|
| On Call                        | \$9.24 Per Month  | \$9.45   |
| Recycling Only                 | \$6.15 per month  | \$6.25   |
| Yard Debris Only               | \$6.15 per month  | \$6.25   |
| Both Recycling and Yard Debris | \$11.35 per Month | \$12.00  |

**Temp 3 Yards (City Rates )**

| Maximum of 4 days  | Current   | Proposed |
|--------------------|-----------|----------|
| Delivery & Removal | \$90.00   | \$95.00  |
| Extra Dump         | \$70.00   | \$74.00  |
| Extra Week *       | \$30.00 * | \$32.00  |

\*period greater than 72 hours, but less than 2 weeks

**Additional / Extra Services**

|  | Current               | Proposed  |
|--|-----------------------|-----------|
| Lost or Damaged Garbage Carts                        | \$54.00               | \$60.00   |
| Lost or Damaged Yard Debris Cart                     | \$61.00               | \$63.00   |
| Lost or Damaged Recycling Cart                       | \$61.00               | \$63.00   |
| Lost or Damaged Recycling Bins                       | \$10.00               | No Change |
| Return Trip Fee Outside of Normally Scheduled Routes | \$20.00               | No Change |
| All occasional Extras (box/bag/can)                  | \$5.00                | No Change |
| Over-full Can Charge                                 | \$5.00                | No Change |
| Yard Debris contaminated with Garbage                | \$5.00                | \$6.00    |
| Gate Opening / Roll out Container (monthly)          | \$15.00               | No Change |
| Special Container (Medical Waste)                    | \$15.00 per container | No Change |



**TUALATIN PROPOSED RATE INCREASE 6/01/2011**  
**Commercial**

All Rate Changes are noted in Red

COMMERCIAL RATES PROPOSED FOR 7.32% INCREASE

**Commercial Services**

| Size     | 1 (current) |          | Stops Per Week |          | 2 (current) |            | 3 (current) |            | 4 (current) |  |
|----------|-------------|----------|----------------|----------|-------------|------------|-------------|------------|-------------|--|
|          | 1 (current) | Proposed | 2 (current)    | Proposed | 3 (current) | Proposed   | 4 (current) | Proposed   |             |  |
| 1 Yard   | \$73.10     | \$77.85  | \$139.65       | \$148.75 | \$204.45    | \$217.75   | N/A         | N/A        |             |  |
| 1.5 Yard | \$102.20    | \$108.85 | \$200.50       | \$213.55 | \$293.20    | \$312.25   | \$381.75    | \$406.55   |             |  |
| 2 Yard   | \$135.50    | \$144.30 | \$263.15       | \$280.25 | \$384.05    | \$409.00   | \$498.70    | \$531.10   |             |  |
| 3 Yard   | \$187.30    | \$200.40 | \$362.50       | \$387.90 | \$527.65    | \$564.60   | \$683.60    | \$728.05   |             |  |
| 4 Yard   | \$239.00    | \$254.55 | \$462.55       | \$492.65 | \$684.80    | \$729.10   | \$894.15    | \$952.25   |             |  |
| 5 Yard   | \$288.15    | \$311.20 | \$566.15       | \$611.45 | \$838.70    | \$893.20   | \$1,104.25  | \$1,176.05 |             |  |
| 6 Yard   | \$332.80    | \$359.40 | \$653.55       | \$705.85 | \$969.20    | \$1,046.75 | \$1,275.90  | \$1,358.85 |             |  |
| 8 Yard   | \$410.65    | \$451.75 | \$805.70       | \$886.25 | \$1,191.40  | \$1,310.55 | \$1,570.10  | \$1,742.80 |             |  |

| Size     | 5 (current) |            | 6 (current) |            | 7 (current) |            |
|----------|-------------|------------|-------------|------------|-------------|------------|
|          | 5 (current) | Proposed   | 6 (current) | Proposed   | 7 (current) | Proposed   |
| 1 Yard   | N/A         | N/A        | N/A         | N/A        | N/A         | N/A        |
| 1.3 Yard | N/A         | N/A        | N/A         | N/A        | N/A         | N/A        |
| 1.5 Yard | \$467.75    | \$498.15   | N/A         | N/A        | N/A         | N/A        |
| 2 Yard   | \$612.00    | \$651.80   | \$734.40    | \$782.15   | \$856.75    | \$912.45   |
| 3 Yard   | \$845.80    | \$900.80   | \$1,022.80  | \$1,094.40 | \$1,184.15  | \$1,261.10 |
| 4 Yard   | \$1,096.85  | \$1,168.15 | \$1,316.20  | \$1,401.75 | \$1,535.60  | \$1,635.40 |
| 5 Yard   | \$1,355.00  | \$1,443.10 | \$1,626.00  | \$1,731.70 | \$1,897.05  | \$1,020.35 |
| 6 Yard   | \$1,578.70  | \$1,705.00 | \$1,894.00  | \$2,017.10 | \$2,210.15  | \$2,353.80 |
| 8 Yard   | \$1,938.70  | \$2,016.25 | \$2,236.45  | \$2,325.90 | \$2,714.20  | \$2,822.75 |

**Commercial Rates / Multi-Family Rates**

|           | Current           | Proposed |
|-----------|-------------------|----------|
| 32 gallon | \$15.30 per month | \$17.65  |
| 60 gallon | \$21.60 per month | \$24.00  |
| 90 gallon | \$27.65 per month | \$30.10  |

**Recycling Rates for Multi-Family Sites With Compactors or Train Systems**

| Number of Units | Current Monthly Charge       | Proposed Monthly Charge      |
|-----------------|------------------------------|------------------------------|
| 10-99           | \$113.00 (minimum per month) | \$120.00 (minimum per month) |
| 100-199         | \$1.98 per unit              | \$2.05 per unit              |
| 200-299         | \$1.53 per unit              | \$1.60 per unit              |
| 300-399         | \$1.41 per unit              | \$1.45 per unit              |
| 400+            | \$1.36 per unit              | \$1.40 per unit              |

Note: Customer will provide and maintain enclosure/shelter. Allied Waste provides containers. Enclosure/shelter is defined as a City/Hauler approved system to collect material. Material to be collected must be approved by Allied Waste. Additional carts shall be at 100% of the first cart rate multiplied by the stops per week. An occasional extra 35-gallon can for a regular customer shall be \$5.00 each occurrence

**Additional Recycling Services - Drop Box and Commercial Customers**

| Size                | Current Monthly Charge  | Proposed Monthly Charge   |
|---------------------|---|---|
| 60-Gallon           | \$13.50 per cart (includes pick-up)   | \$14.00 per cart (includes pick-up)   |
| 90-Gallon           | \$16.20 per cart (includes pick-up)   | \$17.00 per cart (includes pick-up)   |
| Metal tote          | \$20.00 monthly rent, plus hourly rate  | \$22.00 monthly rent, plus hourly rate  |
| Cardboard Container | \$20.00 per month for customers that have less than 4 cubic yards of flattened cardboard per month. | \$22.00 per month for customers that have less than 4 cubic yards of flattened cardboard per month. |

**Miscellaneous Service Rates and Conditions**

|                               | Hourly Hauling Rates | Proposed  |
|-------------------------------|----------------------|-----------|
| 1 Truck + 1 Driver            | \$90/hour            | No Change |
| 1 Truck + 1 Driver + 1 Helper | \$115/hour           | No Change |



TUALATIN PROPOSED RATE INCREASE 6/01/2011

**Industrial**

All Rate Changes are noted in Red

**INDUSTRIAL RATES PROPOSED FOR 10.39% INCREASE**

**Drop Box / Compactor Rates**

|                   | Current  | Proposed | Current  | Proposed | Current | Proposed |
|-------------------|----------|----------|----------|----------|---------|----------|
|                   | Delivery |          | Haul     |          | Rent    |          |
| 10-20 yard        | \$30.00  | \$33.00  | \$80.65  | \$89.05  | \$65.00 | \$72.00  |
| 21-29 yard        | \$30.00  | \$33.00  | \$96.85  | \$105.00 | \$65.00 | \$72.00  |
| 30 yard           | \$30.00  | \$33.00  | \$109.50 | \$120.90 | \$70.00 | \$77.00  |
| 40 yard           | \$30.00  | \$33.00  | \$122.00 | \$134.70 | \$75.00 | \$83.00  |
| 16 yard compactor |          |          | \$102.45 | \$113.10 | N/A     |          |
| 20 yard compactor |          |          | \$119.45 | \$137.10 | N/A     |          |
| 30 yard compactor |          |          | \$159.90 | \$176.50 | N/A     |          |
| 40 yard compactor |          |          | \$184.85 | \$204.05 | N/A     |          |

There will be an additional \$25.00 per haul to round trip a covered box.

| Drop Box Services | Current          |  | Proposed         |  |
|-------------------|------------------|--|------------------|--|
|                   | Loose (per haul) | Compacted                                      | Loose (per haul) | Compacted                                      |
| 10-20-yard        | \$84.25          | \$107.10 (minimum charge for 15 yards or less) | \$89.50          | \$131.85 (minimum charge for 15 yards or less) |
| 21-29-yard        | \$95.85          | \$124.80                                       | \$105.00         | \$137.10                                       |
| 30-39-yard        | \$109.50         | \$167.10                                       | \$120.45         | \$176.50                                       |
| 40+-yard          | \$126.40         | \$193.20 (for 40 cubic yard box or larger)     | \$134.70         | \$205.05 (for 40 cubic box or larger)          |
| Delivery Charge   | \$30.00          |  | \$32.00          |  |
| Round-tripped box | \$25.00          |  | No change        |  |

Note: Drop box rates shall be the standard rates above plus 103% of disposal fees. The disposal fee includes landfill or transfer center fee, disposal franchise fee and Metro user or service fees.

**Rental Fee after 48 Hours**

| Box Size | Current         |           | Proposed        |           |
|----------|-----------------|-----------|-----------------|-----------|
|          | Loose (per day) | Per Month | Loose (per day) | Per Month |
| 10-yard  | \$6.50          | \$65.00   | No change       | \$72.00   |
| 20-yard  | \$6.50          | \$65.00   | No change       | \$72.00   |
| 30-yard  | \$7.00          | \$70.00   | No change       | \$77.00   |
| 40-yard  | \$7.50          | \$75.00   | No change       | \$83.00   |

Note: \$5.00 fee for custom made drop boxes or boxes with lids.  
\$15.00 fee for customers with fewer than 1-haul per month.



TUALATIN PROPOSED RATE INCREASE 6/01/2011  
BULKY

All Rate Changes are noted in Red

| Current<br>Bulky Waste fees for pick-up and disposal |          |                               |          |
|--|----------|-------------------------------|----------|
| Minimum Charge                                       | \$ 10.00 | Return Trip Fee               | \$ 15.00 |
| Full-size Couch/Futon                                | \$ 25.00 | Freezer                       | \$ 40.00 |
| Love Seat Couch/Futon                                | \$ 20.00 | Refrigerator                  | \$ 40.00 |
| Hide-a-bed Couch                                     | \$ 35.00 | Washer                        | \$ 25.00 |
| Office/Kitchen Chair                                 | \$ 15.00 | Dryer                         | \$ 25.00 |
| Reclining Chair                                      | \$ 20.00 | Microwave                     | \$ 15.00 |
| Rocking Chair  | \$ 15.00 | Stove                         | \$ 25.00 |
|  |          | Hot Water Heater/empty        | \$25-40  |
| Mattress/Box Spring-Twin                             | \$ 15.00 | Door                          | \$ 25.00 |
| Mattress/Box Spring-Queen                            | \$ 30.00 | Furnace                       | \$ 25.00 |
| Mattress/Box Spring-King                             | \$ 35.00 | Pallets                       | \$ 10.00 |
| Waterbed Bag   | \$ 15.00 | Entertainment Center          | \$30-50  |
| Dining Table   | \$ 30.00 | BBQ charcoal                  | \$ 25.00 |
| Coffee Table   | \$ 15.00 | BBQ Propane                   | \$ 25.00 |
| Picnic Table   | \$ 25.00 | Lawn Mower                    | \$ 20.00 |
| Umbrella & Base                                      | \$ 20.00 | Tire without Rim              | \$ 15.00 |
| Dresser  | \$ 30.00 | Tire with Rim                 | \$ 20.00 |
| Crib   | \$ 15.00 | Satellite Dish                | \$ 25.00 |
| Mirror   | \$15-30  | Window                        | \$ 15.00 |
| Sink   | \$ 15.00 | Toilet                        | \$ 20.00 |
| Cabinets   | \$ 20.00 | <b>E-waste Removal Charge</b> |          |
| Bathtub  | \$ 40.00 | PC, Monitor or Laptop         | \$ 15.00 |
| Bicycle  | \$ 10.00 | TV Under 25"                  | \$ 15.00 |
| Treadmill  | \$ 25.00 | TV Over 25"                   | \$ 30.00 |
| Hot Tub Cover  | \$30-50  | TV Console                    | \$ 40.00 |
| Dishwasher   | \$ 20.00 | TV Projection                 | \$ 40.00 |
| Rug  | \$ 15.00 | Copiers (e-waste)             | \$ 40.00 |
| Basketball Hoop                                      | \$ 40.00 |                               |          |

| Proposed<br>Bulky Waste fees for pick-up and disposal |           |                               |           |
|---|-----------|-------------------------------|-----------|
| Minimum Charge  | \$ 15.00  | Return Trip Fee               | \$ 20.00  |
| Full-size Couch/Futon                                 | No Change | Freezer                       | \$ 45.00  |
| Love Seat Couch/Futon                                 | No Change | Refrigerator                  | No Change |
| Hide-a-bed Couch                                      | \$ 40.00  | Washer                        | No Change |
| Office/Kitchen Chair                                  | No Change | Dryer                         | No Change |
| Reclining Chair                                       | No Change | Microwave                     | No Change |
| Rocking Chair   | No Change | Stove                         | No Change |
|   |           | Hot Water Heater/empty        | No Change |
| Mattress/Box Spring-Twin                              | No Change | Door                          | No Change |
| Mattress/Box Spring-Queen                             | No Change | Furnace                       | No Change |
| Mattress/Box Spring-King                              | No Change | Pallets                       | No Change |
| Waterbed Bag  | No Change | Entertainment Center          | No Change |
| Dining Table  | No Change | BBQ charcoal                  | No Change |
| Coffee Table  | No Change | BBQ Propane                   | No Change |
| Picnic Table  | No Change | Lawn Mower                    | No Change |
| Umbrella & Base                                       | No Change | Tire without Rim              | No Change |
| Dresser   | No Change | Tire with Rim                 | No Change |
| Crib  | No Change | Satellite Dish                | No Change |
| Mirror  | No Change | Window                        | No Change |
| Sink  | No Change | Toilet                        | No Change |
| Cabinets  | No Change | <b>E-waste Removal Charge</b> |           |
| Bathtub   | No Change | PC, Monitor or Laptop         | No Change |
| Bicycle   | No Change | TV Under 25"                  | No Change |
| Treadmill   | No Change | TV Over 25"                   | No Change |
| Hot Tub Cover   | No Change | TV Console                    | No Change |
| Dishwasher  | No Change | TV Projection                 | No Change |
| Rug   | No Change | Copiers (e-waste)             | No Change |
| Basketball Hoop                                       | No Change |                               |           |

**SCHEDULE A**

ALLIED WASTE SERVICES OF CLACKAMAS AND WASHINGTON COUNTY AS WELL AS ALLIED WASTE SERVICES OF LAKE OSWEGO (remove) (formerly doing business as: KELLER DROP BOX/UNITED DISPOSAL/ROSSMAN, SANITARY (remove))

CITY OF TUALATIN

Effective Date: October 13, 2008 **June 1, 2011**

- I. **RECYCLING SERVICES:** The rates below were established to include the cost for specific recycling services, as well as the collection and disposal of solid waste. They include:
- A. **SINGLE-FAMILY RESIDENTIAL:**
1. Weekly curbside pick-up of co-mingled recycling on the same day as garbage service providing one 65-gallon roll-cart container and two 14-gallon totes.
  2. Weekly curbside pick-up of yard debris providing a 90-gallon roll cart. Only yard debris at the curb in the 90-gallon roll cart will be collected.
- B. **MULTI-FAMILY RESIDENTIAL:** Weekly or weekly on-call pick-up of recyclables (newspaper, glass, tin, aluminum, and cardboard).
- C. **CITY OFFICES:** Office paper recycling of all items included in the Allied Waste Services Mixed Paper Program and corrugated cardboard.
- II. **MONTHLY RATE FOR RESIDENTIAL SERVICE OF ONE CART:**

| <b>Cart Size</b>   | <b>One Stop per Week</b> |
|--|--------------------------|
| 20-Gallon <b>see new rate sheets</b>                               | \$19.75 <b>\$20.05</b>   |
| 35-Gallon  | \$23.05 <b>\$23.50</b>   |
| 60-Gallon  | \$30.25 <b>\$31.00</b>   |
| Occasional extra<br>(35-gallon can or 1 bag)                       | \$5.00                   |
| An additional cart will be charged at double the single cart rate. |                          |

NOTES ON RESIDENTIAL SERVICE: (1) In mobile home parks and apartment complexes where residents have individual cart service and individual billing, single-family cart rates will apply. Where park residents have individual service, but the owner of the park is responsible for payment of services, single-family cart rates will be reduced by \$1.00 per month. (2) All carts will be provided by the franchisee to regular, weekly customers with a cart service level only. No carts will be provided on an on-call basis. (we now will provide these carts for on-call customers) (3) Only 35-gallon cans (carts) can be used for the occasional extra can (cart) for both regular and occasional

customers. (4) An occasional extra 35-gallon can (cart) for a regular customer is \$5.00. (5) The minimum charge for any stop for an occasional customer is ~~\$8.50~~ (new charge \$9.45) Occasional customers (on-call) should have their carts serviced a minimum of once (1) every other month. (6) Recycling service will be provided to an occasional customer only on days that garbage is collected from that customer. A fee of \$10.00 may be charged for replacement of damaged or lost recycling bins or to customers that request more than two. Customers will be charged ~~\$54.00~~ (\$60.00) for a lost or damaged garbage cart, and ~~\$61.00~~ (\$63.00) for a yard debris container (cart), and \$63.00 for a recycling cart. (7) State Accident Insurance Fund safety recommendations shall be followed. Cans provided by customers shall not exceed 35-gallons and 60-pounds when full. (8) Yard debris carts are intended for the collection of yard debris only. If the yard debris cart contains material other than yard debris, collection shall be charged at garbage rates, (\$6.00 per contaminated cart). (9) Cans, (remove the word cans) carts, and recycling bins shall be at curbside no more than 24 hours prior to collection and shall be removed within 24 hours after collection of solid waste and recyclables by the franchisee. (10) An extra charge may be made for service that incurs additional disposal costs such as tires, major appliances, etc., or for handling oversized, odorous, dangerous, or liquid articles. (11) Customers may request recycling only ~~\$6.15~~ (\$6.25) per month); yard debris collection only (~~\$6.15~~) (\$6.25) per month); or both ~~\$11.35~~ (\$12.00) per month). 12. An extra charge of \$20.00 for a driver to go back and pick up a customer that was reinstated or failed to put cart out on time after driver has left area.

III. MULTI-FAMILY AND COMMERCIAL SERVICE:

| Monthly Rates For Multi-Family and Commercial Single Cart Service - Loose |  |
|---|--|
| Cart Size   | One Stop Per Week                              |
| 35-Gallon   | See new rate sheets \$15.30 <del>\$17.65</del> |
| 60-Gallon   | \$21.60 <del>\$24.00</del>                     |
| 90-Gallon   | \$27.65 <del>\$30.10</del>                     |
| An occasional extra 35-gallon can or bag will be charged at \$5.00 each.  |  |
| An additional cart will be charged at double the single cart rate.        |  |

| Monthly Rates For Multi-Family and Commercial Container Service – Loose |                                    |          |            |            |            |            |            |
|---|------------------------------------|----------|------------|------------|------------|------------|------------|
| Container Size  | Stops Per Week see new rate sheets |          |            |            |            |            |            |
|   | 1                                  | 2        | 3          | 4          | 5          | 6          | 7          |
| 1 Cubic Yard  | \$73.10                            | \$139.65 | \$204.45   | N/A        | N/A        | N/A        | N/A        |
| 1.3 Cubic Yards   | \$90.60                            | \$176.20 | \$257.95   | N/A        | N/A        | N/A        | N/A        |
| 1.5 Cubic Yards   | \$102.20                           | \$200.50 | \$293.20   | \$381.75   | \$467.75   | N/A        | N/A        |
| 2 Cubic Yards   | \$135.50                           | \$263.15 | \$384.05   | \$498.70   | \$612.00   | \$734.40   | \$856.75   |
| 3 Cubic Yards   | \$187.30                           | \$362.50 | \$527.65   | \$683.60   | \$845.80   | \$1,022.80 | \$1,184.15 |
| 4 Cubic Yards   | \$239.00                           | \$462.55 | \$684.60   | \$894.15   | \$1,096.85 | \$1,316.20 | \$1,535.60 |
| 5 Cubic Yards   | \$288.15                           | \$566.15 | \$838.70   | \$1,104.25 | \$1,355.00 | \$1,626.00 | \$1,897.05 |
| 6 Cubic Yards   | \$332.80                           | \$653.55 | \$969.20   | \$1,275.90 | \$1,578.70 | \$1,894.40 | \$2,210.15 |
| 8 Cubic Yards   | \$410.65                           | \$805.70 | \$1,191.40 | \$1,570.10 | \$1,938.70 | \$2,236.45 | \$2,714.20 |

| Monthly Rates For Multi-Family and Commercial Container Service -- Loose |                 |          |            |            |            |            |            |
|--|-----------------|----------|------------|------------|------------|------------|------------|
| Container Size   | Stops Per Weeks |          |            |            |            |            |            |
|  | 1               | 2        | 3          | 4          | 5          | 6          | 7          |
| 1 Cubic Yard   | \$77.85         | \$148.75 | \$217.75   | #N/A       | #N/A       | #N/A       | #N/A       |
| 1.5 Cubic Yards  | \$108.85        | \$213.55 | \$312.25   | \$406.55   | \$498.15   | #N/A       | #N/A       |
| 2 Cubic Yards  | \$144.30        | \$280.25 | \$409.00   | \$531.10   | \$651.80   | \$782.15   | \$912.45   |
| 3 Cubic Yards  | \$200.40        | \$387.90 | \$564.60   | \$728.05   | \$900.80   | \$1,094.40 | \$1,261.10 |
| 4 Cubic Yards  | \$254.55        | \$492.65 | \$729.10   | \$952.25   | \$1,168.15 | \$1,401.75 | \$1,635.40 |
| 5 Cubic Yards  | \$311.20        | \$611.45 | \$893.20   | \$1,176.05 | \$1,443.10 | \$1,731.70 | \$1,020.35 |
| 6 Cubic Yards  | \$359.40        | \$705.85 | \$1,046.75 | \$1,358.85 | \$1,705.00 | \$2,017.10 | \$2,353.80 |
| 8 Cubic Yards  | \$451.75        | \$886.25 | \$1,310.55 | \$1,742.80 | \$2,016.25 | \$2,325.90 | \$2,822.75 |

A. COMPACTED CONTAINER SERVICE:

Compacted is defined as manually or mechanically compacted. When materials can be collected from a compacted container by the normal container truck, the charge will be three (3) times the loose container rate. The weight of material put into a container or drop box, whether compacted or un-compacted, shall not exceed the lifting capacity of the collector's equipment nor shall the weight put the collector over the weight limit for the loaded vehicle. Compactor containers shall be furnished by the customer and shall be compatible with the collector's equipment. Customer shall be required to maintain the container in a safe and operable condition in accordance with workers' compensation board regulations.

B. RECYCLING ONLY RATES:

Where a multi-family complex uses a compactor or train system for garbage collection, the following schedule will be used to charge for recycling services provided:

| Recycling Rates for Multi-Family Sites With Compactors or Train Systems |  |
|---|--|
| Number of Units   | Monthly Charge                               |
| 10-99   | \$113.00 (minimum per month) <b>\$120.00</b> |
| 100-199   | \$1.98 per unit <b>\$2.05</b>                |
| 200-299   | \$1.53 per unit <b>\$1.60</b>                |
| 300-399   | \$1.41 per unit <b>\$1.45</b>                |
| 400+  | \$1.36 per unit <b>\$1.40</b>                |

Note: Customer will provide and maintain enclosure/shelter and Hauler will provide containers. Enclosure/shelter is defined as any City/Hauler-approved system to collect material. Material to be collected must be approved by the Hauler.

NOTES ON MULTI-FAMILY AND COMMERCIAL SERVICE: (1) Additional carts shall be at 100% of the first cart rate multiplied by the stops per week. (2) An occasional

extra 35-gallon can for a regular customer shall be \$5.00 each occurrence. (3) An extra charge may be made for garbage which is not readily available on collection day or which needs additional janitorial service. (4) The charge for multiple units of any type shall be to the owner of the units. (5) Collection of tires, major appliances, etc., or for handling oversized, odorous, dangerous or liquid articles will be charged according to the charges referred to in Schedule A – Section 6. (6) When a stop uses the equivalent of seven or more 35-gallon carts, collector may require that the service be shifted to a container-type service. (7) Franchisee reserves the right to refuse carts to any customer where the use is not compatible with the cart. (8) All carts will be provided by franchisee. only to regular, weekly customers who request service (remove this part). (9) The weight of the 35-gallon cart and contents shall not exceed 60 pounds. The weight of the 60- or 90-gallon cart and contents shall not exceed 180 pounds. (10) Carts will be picked up at curbside only and must be there prior to 6:00 a.m. (11) Carts shall be at curbside no more than 24 hours prior to collection and shall be removed within 24 hours after collection of solid waste by the franchisee. (12) Where customers within an apartment complex have individual pick-up of garbage, but no yard debris collection from each unit, the multi-family rate shall be charged. (13) A multi-family classification is defined as a single structure containing more than four living units. Where a multi-family structure is receiving cart service and the owner of the structure is responsible for the payment of services, the cart rates shall be \$1.00 per month less than the normal multi-family cart rates. 14. An extra charge may apply for garbage that is not readily available on collection day, or in need of additional janitorial service.

IV. DROP BOX SERVICE:

Drop box rates shall be the following rates plus 103% of disposal fees. The disposal fee includes landfill or transfer center fee, disposal franchise fee and Metro user or service fees. The rates are as follows:

| Box Size  | Loose (Per Haul)               | Compacted Material   |
|---|--------------------------------|--|
| 10-20-yard  | \$84.25 <del>(\$89.05)</del>   | \$107.10 (minimum charge for 15 yards or less) <del>(\$131.85)</del> |
| 21-29-yard  | \$96.85 <del>(\$105.00)</del>  | \$124.80 <del>(\$137.10)</del>                                       |
| 30-39-yard  | \$109.50 <del>(\$120.90)</del> | \$167.10 <del>(\$176.50)</del>                                       |
| 40+-yard  | \$126.40 <del>\$134.70</del>   | \$193.20 (for 40 cubic yard box or larger) <del>(\$204.05)</del>     |
| Additional charge for delivery: \$30.00 <del>(\$33.00)</del> each |                                |  |

A. MISCELLANEOUS ADDITIONAL DROP BOX CHARGES:

1. Delivery fee of \$30.00 ~~(\$33.00)~~ shall be charged for drop box delivery for the occasional customer or repeat customer requiring service at different locations.
  - 1a. An additional haul fee of \$25.00 will be charged to customers with covered (lids) boxes that require the box to be round-tripped.
2. Special disposal/diversion needs: All customers will be charged the hourly

charge rate in addition to the normal haul rate whenever collected materials require disposal at a site other than the franchisee's traditional disposal site.

3. After 48 hours, temporary users of 10-cubic yard and larger drop boxes collecting loose materials shall be charged a rental fee (noted below) if fewer than one load per week is hauled (remove).

| Box Size | Loose (Per Day) | Per Month                    |
|----------|-----------------|------------------------------|
| 10-yard  | \$6.50          | \$65.00 <del>(\$72.00)</del> |
| 20-yard  | \$6.50          | \$65.00 <del>(\$72.00)</del> |
| 30-yard  | \$7.00          | \$70.00 <del>(\$77.00)</del> |
| 40-yard  | \$7.50          | \$75.00 <del>(\$83.00)</del> |
|          |                 |                              |

4. Additional rental fees of ~~(of \$5.00 per month)~~ may be charged to customers who require custom made drop boxes or boxes with lids. ~~Additional rental fees of \$15.00 per month will be charged for customers that have their box's hauled less than one time per month.~~

V. RECYCLING CHARGES FOR DROP BOX ONLY AND COMMERCIAL CUSTOMERS:

If a customer requests recycling services that are beyond the Washington County Recycling standards, the following charges will be made:

| Recycling Charges for Drop Box Only and Commercial Customers<br>Requesting recycling services only. |  |
|---|--|
| Size  | Monthly Charge   |
| 60-Gallon   | \$13.50 per cart (includes pick-up) <del>(\$14.00)</del>   |
| 90-Gallon   | \$16.20 per cart (includes pick-up) <del>(\$17.00)</del>   |
| Metal tote  | \$20.00 monthly rent, plus hourly rate <del>(\$22.00)</del>  |
| OCC Container   | \$20.00 per month for customers that have less than 4 cubic yards of flattened cardboard per month. <del>(\$22.00)</del> |

VI. MISCELLANEOUS SERVICE RATES AND PROVISIONS:

- A. Hourly hauling rates (plus cost of disposal):
  - 1 truck and 1 driver \$ 90.00/hour
  - 1 truck, 1 driver, and 1 helper \$115.00/hour
- B. Each location of cans (remove), carts, containers, or drop boxes will be billed as a

separate account.

- C. When customer's abuse or cause excessive wear or damage to a cart, container, or drop box, the cost of repair or replacement may be charged to the customer. Customers shall take appropriate actions to ensure that hazardous materials, chemicals, paint, corrosive materials, infectious waste, or hot ashes are not put into a can (remove), cart, container, or drop box.
- D. The weight of material put into a container or drop box, whether compacted or un-compacted, shall not exceed the lifting capacity of the collector's equipment nor shall the weight put the collector over the weight limit for the loaded vehicle. The collector shall furnish the customer with information concerning limitations on his equipment, upon request. If the total weight of a container exceeds (500) pounds per cubic yard for 40-yard container, 350 (600) pounds per cubic foot for a 30-yard, or 450 (900) pounds for a 20-yard container, an additional reasonable disposal fee may be charged. Customers shall not overfill a can, cart, or container so that the lid cannot be securely closed. If a can, cart, or container is overfilled, an additional reasonable fee may be charged. If the contents of a container, cart, or drop box are compacted (either mechanically or manually), the compactor rate shall be charged.
- E. Customers shall provide a space for all cans (remove), carts, containers, or drop boxes, whether used for garbage or recycling, that has adequate and safe access for collection personnel and equipment. The space provided must also comply with the City of Tualatin Development Code.
- F. If overtime or weekend collection is required to meet the request of a customer, the hauling portion of the rate shall be increased by 50%.
- G. The collection of tires shall be charged under the hourly charge rates, plus disposal.
- H. Garbage or yard debris carts which exceed two pounds per gallon, or where lids will not properly close, will be assessed an "occasional extra" charge of \$5.00.
- I. Yard debris carts contaminated with garbage will be charged \$5.00 (~~\$6.00~~) extra per occurrence.
- J. Franchisee may require generators of putrescible solid waste to remove waste at least every seven days, or more frequently, if necessary, to prevent a health hazard, nuisance, or pollution.
- K. When a single customer uses multiple carts, which are the equivalent of one cubic yard or more of waste per week, the franchisee may require the customer to change to a container type service.
- L. If material collected requires disposal at a site other than the franchisee's normal disposal site, the customer will be charged under the hourly charge rate, in

addition to the normal haul rate.

- M. Placement of hazardous waste material, including tires, liquid waste (paint) and appliances, in a unit collected by franchisee is prohibited.
- N. All customers shall provide a space, regardless of type of unit that is adequate for the franchisee to safely collect the material. The space provided must comply with the City of Tualatin's Development Code.
- O. Customers requesting the temporary use of a three-cubic-yard container will be charged ~~\$90.00~~ **\$95.00** for delivery, removal and disposal. Containers on-site for a period in excess of 72 hours shall be charged rent at a rate of ~~\$30.00~~ **(\$32.00)** per week or ~~\$70.00~~ **(\$74.00)** for an extra haul fee. **(Container can only be on site for a maximum of two (2) weeks)!**
- P. Enclosures where driver has to open gates and roll out containers will be charged \$15.00 per container **(enclosure)** per month.
- Q. Medical waste restrictions. Placement of any medical waste, including syringes, IV tubing with needles attached, glass tubes, and slides, in a unit collected by franchisee is strictly prohibited. Allied Waste Services will provide at-cost sharps containers for medical waste disposal, **(current cost is \$15.00 per container)**. Disposal of these containers must be brought directly to their facility for exchange/disposal.
- R. Franchisee will perform special pick-ups of irregular materials charging current disposal rates plus labor. **These pick-ups will be performed @ Allied Waste's discretion and schedule.**

**Bulky Waste fees for pick-up and disposal**

|                           |                        |                        |                        |
|---------------------------|------------------------|------------------------|------------------------|
| Minimum Charge            | \$10 <del>(\$15)</del> | Go Back Fee            | \$15 <del>(\$20)</del> |
| Full-size Couch/Futon     | \$25                   | Freezer                | \$40 <del>(\$45)</del> |
| Love Seat Couch/Futon     | \$20                   | Refrigerator           | \$40                   |
| Hide-a-bed Couch          | \$35 <del>(\$40)</del> | Washer                 | \$25                   |
| Office/Kitchen Chair      | \$15                   | Dryer                  | \$25                   |
| Reclining Chair           | \$20                   | Microwave              | \$15                   |
| Rocking Chair             | 15                     | Stove                  | \$25                   |
| Mattress/Box Spring-Twin  | \$15                   | Hot Water Heater/empty | \$25-40 (size)         |
| Mattress/Box Spring-Queen | \$30                   | Door                   | \$25                   |

|                          |                     |                          |                     |
|--------------------------|---------------------|--------------------------|---------------------|
| Mattress/Box Spring-King | \$35                | Furnace                  | \$25                |
| Waterbed Bag             | \$15                | Pallets                  | \$10 each           |
| Dining Table             | \$30                | Entertainment Center     | \$30 - 50<br>(size) |
| Coffee Table             | \$15                | BBQ charcoal             | \$25                |
| Picnic Table             | \$25                | BBQ Propane              | \$25                |
| Umbrella & base          | \$20                | Lawn Mower               | \$20                |
| Dresser                  | \$30                | Tire without Rim         | \$15                |
| Crib                     | \$15                | Tire with Rim            | \$20                |
| Mirror                   | \$15 - 30<br>(size) | Satellite Dish           | \$25                |
| Sink                     | \$15                | Window                   | \$15                |
| Cabinets                 | \$20                | Toilet                   | \$20                |
| Bathtub                  | \$40                | <b>E - WASTE REMOVAL</b> | <b>CHARGE:</b>      |
| Bicycle                  | \$10                | PC, Monitor or Laptop    | \$15                |
| Treadmill                | \$25                | TV Under 25"             | \$15                |
| Hot Tub Cover            | \$30-\$50<br>(size) | TV Over 25"              | \$30                |
| Dishwasher               | \$20                | TV Console               | \$40                |
| Rug                      | \$15                | TV Projection            | \$40                |
| Basketball Hoop          | \$40                | Copiers (e-waste)        | \$40                |

VII. ANNUAL REPORT FILING SCHEDULE FOR FRANCHISEES:

On or before March 15, franchisees shall file an annual report with the City for the year ending the previous December 31.

RESOLUTION NO. 5019-11

RESOLUTION CONSENTING TO THE TRANSFER OF CONTROL OF THE SOLID WASTE AND RESOURCE RECOVERY FRANCHISE GRANTED TO UNITED DISPOSAL, INC., ROSSMAN SANITARY SERVICE, INC., AND KELLER DROP BOX, INC., TO UNITED DISPOSAL SERVICES, INC. DBA ALLIED WASTE SERVICES OF CLACKAMAS AND WASHINGTON COUNTIES

WHEREAS the City of Tualatin entered into an exclusive solid waste and resource recovery franchise agreement with United Disposal Service, Inc., Rossman Sanitary Service, Inc., and Keller Drop Box, Inc., through Ordinance 1140-03 passed in 2003;

WHEREAS the parent ownership of these three entities companies is Allied Waste Services, Inc.; and

WHEREAS Allied Waste Services, Inc., has requested that the City of Tualatin consolidate the designated areas for these three companies and their associations into one location under one entity; United Disposal Services, Inc., dba as Allied Waste Services of Clackamas and Washington Counties.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. Consent to the Transfer of Control.

The City Council hereby consents to the transfer of control of the franchisee and of the franchise from United Disposal Service, Inc., Rossman Sanitary Service, Inc., and Keller Drop Box, Inc., to United Disposal Services, Inc., dba Allied Waste Services of Clackamas and Washington Counties.

Section 2. Effective Date.

This Resolution shall be effective upon its adoption by the Council.

INTRODUCED AND ADOPTED this 14<sup>th</sup> day of February, 2011.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_

Mayor

ATTEST:

BY \_\_\_\_\_

City Recorder

APPROVED AS TO LEGAL FORM



CITY ATTORNEY

RESOLUTION NO. 4837-08

RESOLUTION ADOPTING SERVICE LEVEL STANDARDS AND RATES TO ACCOMMODATE A CO-MINGLED CART RECYCLING PROGRAM INSIDE THE CITY OF TUALATIN AND RESCINDING RESOLUTION 4825-08

WHEREAS the solid waste franchise ordinance requires the City Council to review a franchisee's request for a service level change; and

WHEREAS this proposed program will provide each residential account with a 65-gallon container for co-mingled recycling to be picked up weekly, along with all their other services; and residential accounts will continue to keep their two 14-gallon totes for use when recycling glass and oil; and

WHEREAS the estimated increase in residential waste diversion will help meet the 65 percent recycling goal set by Metro for 2009; and.

WHEREAS the proposed service level changes will keep Tualatin's rates competitive with the average cost of service by surrounding cities; and

WHEREAS city staff has analyzed the impact of this proposed service level change and provided its recommendation with implementing these changes.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. Effective date for the residential roll-cart recycling program to occur upon implementation. The service level and charges set forth in Schedule A, which is attached and incorporated into this Resolution, are established and authorized for collection of solid waste, refuse, and recycling material within the corporate limits of the City of Tualatin.

Section 2. The schedule of rates, charges, and services adopted by Resolution No. 4825-08 is rescinded, effective upon implementation with an expected date of February 2009.

INTRODUCED AND ADOPTED this 13th day of October, 2008.

~~CITY OF TUALATIN, OREGON~~

BY \_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM  
*Brendan H. Braden*  
CITY ATTORNEY

ATTEST:  
BY *[Signature]*  
City Recorder

**SCHEDULE A**

**ALLIED WASTE SERVICES OF CLACKAMAS AND WASHINGTON COUNTY AS WELL AS ALLIED WASTE SERVICES OF LAKE OSWEGO (formerly doing business as: KELLER DROP BOX/UNITED DISPOSAL/ROSSMAN, SANITARY)**

**CITY OF TUALATIN**  
**Effective Date: October 13, 2008**

**I. RECYCLING SERVICES:** The rates below were established to include the cost for specific recycling services, as well as the collection and disposal of solid waste. They include:

**A. SINGLE-FAMILY RESIDENTIAL:**

1. Weekly curbside pick-up of co-mingled recycling on the same day as garbage service providing one 65-gallon roll-cart container and two 14-gallon totes.
2. Weekly curbside pick-up of yard debris providing a 90-gallon roll cart. Only yard debris at the curb in the 90-gallon roll cart will be collected.

**B. MULTI-FAMILY RESIDENTIAL:** Weekly or weekly on-call pick-up of recyclables (newspaper, glass, tin, aluminum, and cardboard).

**C. CITY OFFICES:** Office paper recycling of all items included in the Allied Waste Services Mixed Paper Program and corrugated cardboard.

**II. MONTHLY RATE FOR RESIDENTIAL SERVICE OF ONE CART:**

| <b>Cart Size</b>   | <b>One Stop per Week</b> |
|--|--------------------------|
| 20-Gallon  | \$19.75                  |
| 35-Gallon  | \$23.05                  |
| 60-Gallon  | \$30.25                  |
| Occasional extra<br>(35-gallon can or 1 bag)                       | \$5.00                   |
| An additional cart will be charged at double the single cart rate. |                          |

**NOTES ON RESIDENTIAL SERVICE:** (1) In mobile home parks and apartment complexes where residents have individual cart service and individual billing, single-family cart rates will apply. Where park residents have individual service, but the owner of the park is responsible for payment of services, single-family cart rates will be reduced by \$1.00 per month. (2) All carts will be provided by the franchisee to regular, weekly customers with a cart service level only. No carts will be provided on an on-call basis. (3) Only 35-gallon cans can be used for the occasional extra can for both regular and occasional customers. (4) An occasional extra 35-gallon can for a regular customer is \$5.00. (5) The minimum charge for any stop for an occasional customer is \$8.50. (6) Recycling service will be provided to an occasional customer only on days

that garbage is collected from that customer. A fee of \$10.00 may be charged for replacement of damaged or lost recycling bins or to customers that request more than two. Customers will be charged \$54.00 for a lost or damaged cart and \$61.00 for a yard debris container. (7) State Accident Insurance Fund safety recommendations shall be followed. Cans provided by customers shall not exceed 35-gallons and 60-pounds when full. (8) Yard debris carts are intended for the collection of yard debris only. If the yard debris cart contains material other than yard debris, collection shall be charged at garbage rates. (9) Cans, carts, and recycling bins shall be at curbside no more than 24 hours prior to collection and shall be removed within 24 hours after collection of solid waste and recyclables by the franchisee. (10) An extra charge may be made for service that incurs additional disposal costs such as tires, major appliances, etc., or for handling oversized, odorous, dangerous, or liquid articles. (11) Customers may request recycling only (\$6.15 per month); yard debris collection only (\$6.15 per month); or both (\$11.35 per month).

**III. MULTI-FAMILY AND COMMERCIAL SERVICE:**

| Monthly Rates For Multi-Family and Commercial Single Cart Service - Loose |                   |
|---|-------------------|
| Cart Size   | One Stop Per Week |
| 35-Gallon   | \$15.30           |
| 60-Gallon   | \$21.60           |
| 90-Gallon   | \$27.65           |
| An occasional extra 35-gallon can or bag will be charged at \$5.00 each.  |                   |
| An additional cart will be charged at double the single cart rate.        |                   |

| Monthly Rates For Multi-Family and Commercial Container Service - Loose |                |          |            |            |            |            |            |
|---|----------------|----------|------------|------------|------------|------------|------------|
| Container Size  | Stops Per Week |          |            |            |            |            |            |
|   | 1              | 2        | 3          | 4          | 5          | 6          | 7          |
| 1 Cubic Yard  | \$73.10        | \$139.65 | \$204.45   | N/A        | N/A        | N/A        | N/A        |
| 1.3 Cubic Yards   | \$90.60        | \$176.20 | \$257.95   | N/A        | N/A        | N/A        | N/A        |
| 1.5 Cubic Yards   | \$102.20       | \$200.50 | \$293.20   | \$381.75   | \$467.75   | N/A        | N/A        |
| 2 Cubic Yards   | \$135.50       | \$263.15 | \$384.05   | \$498.70   | \$612.00   | \$734.40   | \$856.75   |
| 3 Cubic Yards   | \$187.30       | \$362.50 | \$527.65   | \$683.60   | \$845.80   | \$1,022.80 | \$1,184.15 |
| 4 Cubic Yards   | \$239.00       | \$462.55 | \$684.60   | \$894.15   | \$1,096.85 | \$1,316.20 | \$1,535.60 |
| 5 Cubic Yards   | \$288.15       | \$566.15 | \$838.70   | \$1,104.25 | \$1,355.00 | \$1,626.00 | \$1,897.05 |
| 6 Cubic Yards   | \$332.80       | \$653.55 | \$969.20   | \$1,275.90 | \$1,578.70 | \$1,894.40 | \$2,210.15 |
| 8 Cubic Yards   | \$410.65       | \$805.70 | \$1,191.40 | \$1,570.10 | \$1,938.70 | \$2,236.45 | \$2,714.20 |

**A. COMPACTED CONTAINER SERVICE:**

Compacted is defined as manually or mechanically compacted. When materials can be collected from a compacted container by the normal container truck, the charge will be three (3) times the loose container rate. The weight of material put into a container or drop box, whether compacted or un-compacted, shall not exceed the lifting capacity of the collector's equipment nor shall the weight put the collector over the weight limit for the loaded vehicle. Compactor containers shall be furnished by the customer and shall be compatible with the collector's

equipment. Customer shall be required to maintain the container in a safe and operable condition in accordance with workers' compensation board regulations.

**B. RECYCLING ONLY RATES:**

Where a multi-family complex uses a compactor or train system for garbage collection, the following schedule will be used to charge for recycling services provided:

| Recycling Rates for Multi-Family Sites<br>With Compactors or Train Systems   |                              |
|--|------------------------------|
| Number of Units  | Monthly Charge               |
| 10-99  | \$113.00 (minimum per month) |
| 100-199  | \$1.98 per unit              |
| 200-299  | \$1.53 per unit              |
| 300-399  | \$1.41 per unit              |
| 400+   | \$1.36 per unit              |
| <p><b>Note:</b> Customer will provide and maintain enclosure/shelter and Hauler will provide containers. Enclosure/shelter is defined as any City/Hauler-approved system to collect material. Material to be collected must be approved by the Hauler.</p> |                              |

**NOTES ON MULTI-FAMILY AND COMMERCIAL SERVICE:** (1) Additional carts shall be at 100% of the first cart rate multiplied by the stops per week. (2) An occasional extra 35-gallon can for a regular customer shall be \$5.00 each occurrence. (3) An extra charge may be made for garbage which is not readily available on collection day or which needs additional janitorial service. (4) The charge for multiple units of any type shall be to the owner of the units. (5) Collection of tires, major appliances, etc., or for handling oversized, odorous, dangerous or liquid articles will be charged according to the charges referred to in Schedule A – Section 6. (6) When a stop uses the equivalent of seven or more 35-gallon carts, collector may require that the service be shifted to a container-type service. (7) Franchisee reserves the right to refuse carts to any customer where the use is not compatible with the cart. (8) All carts will be provided by franchisee only to regular, weekly customers who request service. (9) The weight of the 35-gallon cart and contents shall not exceed 60 pounds. The weight of the 60- or 90-gallon cart and contents shall not exceed 180 pounds. (10) Carts will be picked up at curbside only and must be there prior to 6:00 a.m. (11) Carts shall be at curbside no more than 24 hours prior to collection and shall be removed within 24 hours after collection of solid waste by the franchisee. (12) Where customers within an apartment complex have individual pick-up of garbage, but no yard debris collection from each unit, the multi-family rate shall be charged. (13) A multi-family classification is defined as a single structure containing more than four living units. Where a multi-family structure is receiving cart service and the owner of the structure is responsible for the payment of services, the cart rates shall be \$1.00 per month less than the normal multi-family cart rates.

**IV. DROP BOX SERVICE:**

Drop box rates shall be the following rates plus 103% of disposal fees. The disposal fee includes landfill or transfer center fee, disposal franchise fee and Metro user or service

fees. The rates are as follows:

| Box Size                                     | Loose (Per Haul) | Compacted Material                             |
|--|------------------|--|
| 10-20-yard                                   | \$84.25          | \$107.10 (minimum charge for 15 yards or less) |
| 21-29-yard                                   | \$96.85          | \$124.80                                       |
| 30-39-yard                                   | \$109.50         | \$167.10                                       |
| 40+-yard                                     | \$126.40         | \$193.20 (for 40 cubic yard box or larger)     |
| Additional charge for delivery: \$30.00 each |                  |  |

**A. MISCELLANEOUS ADDITIONAL DROP BOX CHARGES:**

1. Delivery fee of \$30.00 shall be charged for drop box delivery for the occasional customer or repeat customer requiring service at different locations.
2. Special disposal/diversion needs: All customers will be charged the hourly charge rate in addition to the normal haul rate whenever collected materials require disposal at a site other than the franchisee's traditional disposal site.
3. After 48 hours, temporary users of 10-cubic yard and larger drop boxes collecting loose materials shall be charged a rental fee (noted below) if fewer than one load per week is hauled.

| Box Size | Loose (Per Day) | Per Month |
|----------|-----------------|-----------|
| 10-yard  | \$6.50          | \$65.00   |
| 20-yard  | \$6.50          | \$65.00   |
| 30-yard  | \$7.00          | \$70.00   |
| 40-yard  | \$7.50          | \$75.00   |

4. Additional rental fees may be charged to customers who require custom made drop boxes or boxes with lids.

**V. RECYCLING CHARGES FOR DROP BOX ONLY AND COMMERCIAL CUSTOMERS:**

If a customer requests recycling services that are beyond the Washington County Recycling standards, the following charges will be made:

| Recycling Charges for Drop Box Only and Commercial Customers<br>Requesting recycling services only. |   |
|---|---|
| Size  | Monthly Charge  |
| 60-Gallon   | \$13.50 per cart (includes pick-up)   |
| 90-Gallon   | \$16.20 per cart (includes pick-up)   |
| Metal tote  | \$20.00 monthly rent, plus hourly rate  |
| OCC Container   | \$20.00 per month for customers that have less than 4 cubic yards of flattened cardboard per month. |

**VI. MISCELLANEOUS SERVICE RATES AND PROVISIONS:**

- A. Hourly hauling rates (plus cost of disposal):
  - 1 truck and 1 driver                      \$ 90.00/hour
  - 1 truck, 1 driver, and 1 helper        \$115.00/hour
  
- B. Each location of cans, carts, containers, or drop boxes will be billed as a separate account.
  
- C. When customers abuse or cause excessive wear or damage to a cart, container, or drop box, the cost of repair or replacement may be charged to the customer. Customers shall take appropriate actions to ensure that hazardous materials, chemicals, paint, corrosive materials, infectious waste, or hot ashes are not put into a can, cart, container, or drop box.
  
- D. The weight of material put into a container or drop box, whether compacted or un-compacted, shall not exceed the lifting capacity of the collector's equipment nor shall the weight put the collector over the weight limit for the loaded vehicle. The collector shall furnish the customer with information concerning limitations on his equipment, upon request. If the total weight of a container exceeds 250 pounds per cubic yard for 40-yard container, 350 pounds per cubic foot for a 30-yard, or 450 pounds for a 20-yard container, an additional reasonable disposal fee may be charged. Customers shall not overfill a can, cart, or container so that the lid cannot be securely closed. If a can, cart, or container is overfilled, an additional reasonable fee may be charged. If the contents of a container, cart, or drop box are compacted (either mechanically or manually), the compactor rate shall be charged.
  
- E. Customers shall provide a space for all cans, carts, containers, or drop boxes, whether used for garbage or recycling, that has adequate and safe access for collection personnel and equipment. The space provided must also comply with the City of Tualatin Development Code.
  
- F. If overtime or weekend collection is required to meet the request of a customer, the hauling portion of the rate shall be increased by 50%.
  
- G. The collection of tires shall be charged under the hourly charge rates, plus disposal.
  
- H. Garbage or yard debris carts which exceed two pounds per gallon, or where lids will not properly close, will be assessed an "occasional extra" charge of \$5.00.
  
- I. Yard debris carts contaminated with garbage will be charged \$5.00 extra per occurrence.
  
- J. Franchisee may require generators of putrescible solid waste to remove waste at least every seven days, or more frequently, if necessary, to prevent a health hazard, nuisance, or pollution.

- K. When a single customer uses multiple carts, which are the equivalent of one cubic yard or more of waste per week, the franchisee may require the customer to change to a container type service.
- L. If material collected requires disposal at a site other than the franchisee's normal disposal site, the customer will be charged under the hourly charge rate, in addition to the normal haul rate.
- M. Placement of hazardous waste material, including tires, liquid waste (paint) and appliances, in a unit collected by franchisee is prohibited.
- N. All customers shall provide a space, regardless of type of unit that is adequate for the franchisee to safely collect the material. The space provided must comply with the City of Tualatin's Development Code.
- O. Customers requesting the temporary use of a three-cubic-yard container will be charged \$90.00 for delivery, removal and disposal. Containers on-site for a period in excess of 72 hours shall be charged rent at a rate of \$30.00 per week or \$70.00 for an extra haul fee.
- P. Enclosures where driver has to open gates and roll out containers will be charged \$15.00 per container per month.
- Q. Medical waste restrictions. Placement of any medical waste, including syringes, IV tubing with needles attached, glass tubes, and slides, in a unit collected by franchisee is strictly prohibited. Allied Waste Services will provide at-cost sharps containers for medical waste disposal. Disposal of these containers must be brought directly to their facility for exchange/disposal.
- R. Franchisee will perform special pick-ups of irregular materials charging current disposal rates plus labor.

**VII. ANNUAL REPORT FILING SCHEDULE FOR FRANCHISEES:**

On or before March 15, franchisees shall file an annual report with the City for the year ending the previous December 31.

ORDINANCE NO. 1140 -03

AN ORDINANCE RELATING TO SOLID WASTE MANAGEMENT AND RESOURCE RECOVERY, GRANTING AN EXCLUSIVE FRANCHISE TO COLLECT, TRANSPORT, AND CONVEY SOLID WASTE UPON THE STREETS WITHIN THE CITY AND TO DISPOSE OF OR RECOVER MATERIALS OR ENERGY FROM SUCH SOLID WASTES AND TO RECYCLE RECYCLABLE MATERIALS, AND PROVIDING PENALTIES.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**Section 1. Title.** This ordinance shall be known as the "Solid Waste Management Ordinance.

**Section 2. Purpose, policy and scope.**

It is the public policy of the City of Tualatin to regulate solid waste management by:

- (a) Insuring safe, economical, and comprehensive solid waste service;
- (b) Insuring service rates and charges that are just and reasonable and adequate to provide necessary public service;
- (c) Prohibiting rate preferences and other discriminatory practices;
- (d) Providing technologically and economically feasible resource recovery by and through the franchisees.

**Section 3. Definitions.** Except where the context clearly indicates a different meaning, the definitions appearing in ORS Chapters 459 and 459A and regulations promulgated thereunder are applicable to this ordinance. The singular includes the plural and vice versa. As used in this ordinance, the following words have the meanings as follows:

(a) "City" means the City of Tualatin. When the city limits are extended, the City shall include the extended geographic boundaries.

(b) "Collection franchise" means a franchise, issued by the City authorizing a person to provide collection service, for use of City streets.

(c) "Compaction" means the process by which material is shredded, manually compacted or mechanically compacted.

(d) "Compensation" includes:

(1) Any type of consideration paid for service including, but not limited to rent, the proceeds from resource recovery, any direct or indirect provision for the payment of money, goods, services or benefits by tenants, lessees, occupants or similarly situated persons;

(2) The exchange of service between persons; and

(3) The flow of consideration from a person owning, possessing or generating solid waste to another person who provides services or from a person providing services to another person owning, possessing or generating solid waste. Compensation does not include the benefits, incidental advantages or tax advantages resulting from the donation of services or any form of solid waste.

(e) "City Council" means the City Council of the City of Tualatin;

(f) "Curbside/roadside" means a location within three feet of the edge of a public street, excluding such area separated from the street by a fence or enclosure. The "street" may be a public alley if the franchisee desires to pick up receptacles from the alley. For residences on a flag lot or other private driveway, or a private street not meeting the standards, "curbside" shall be the point where the driveway or street intersects the public street, or at such other location agreed upon between the franchisee and customer or as determined by the City.

(g) "Franchisee" means the person or persons to whom a franchise is granted by the City Council pursuant to this ordinance. A franchise may be delineated as to the form or geographic boundaries of service to be provided. Except as otherwise provided, within the defined geographic locations of the City, such franchise shall grant exclusive rights to provide service and solid waste management services for compensation.

(h) "Generator" means the person who produces the solid waste and recyclable material and places it for collection and disposal. The term does not include a person who manages an intermediate function of altering or compacting the material after it has been produced by the generator and placed for collection and disposal.

(i) "Hazardous waste" has the meaning defined in ORS 466.005.

(j) "Infectious waste" means biological waste, cultures and stocks, pathological wastes and sharps as defined in ORS 459.386 and 459.387.

(k) "Mixed recyclables" means two or more recyclable materials collected together that are not separated, in the combination of materials allowed by the City.

(l) "Organic waste" means materials that can be biologically synthesized by plants or animals from simpler substances, are no longer suited for their intended purpose and are readily broken down by biological processes into soil constituents. Organic waste includes, but is not limited to food waste, yard debris, paper and putrescible materials that are generally a source of food for bacteria.

(m) "Person" means an individual, partnership, association, corporation, cooperative, trust, firm, estate or other private legal entity.

(n) "Placed for collection" means solid waste, recyclable materials or yard debris that has been placed by the generator for collection by the franchisee in accordance with the terms of this ordinance.

(o) "Processing" means an operation where collected, source separated, recyclable materials are sorted, graded, cleaned, identified or otherwise prepared for end use markets.

(p) "Rate" means the amount approved by the City as a charge for service rendered and charged by the franchisee, including the franchise fee, to users of the service.

(q) "Recyclable materials" means any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material, or other materials as may be designated by the City.

(r) "Resource recovery" means the process of obtaining useful material or energy resources from solid waste, including energy recovery, material recovery, recycling and reuse of solid waste.

(s) "Solid waste" means all putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper, cardboard, grass clippings, compost, tires, manure, equipment and furniture; sewage sludge, septic tank and

cesspool pumping or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts of vehicles; discarded home or industrial appliances; vegetable or animal solid and semi-solid wastes, dead animals and other wastes; but the term does not include:

(1) Hazardous waste as defined in ORS 466.005;

(2) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals;

(3) Beverage containers subject to reuse or refund provisions in ORS 459.810.

(t) "Solid waste collection service" or "service" means collection of solid waste and recyclable materials, and the transportation, storage and disposal or resource recovery of the materials to an approved disposal facility or facility accepting recyclable materials.

(u) "Solid waste management" means the prevention or reduction of solid waste; management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities necessary or convenient to such activities.

(v) "Source separate" means the removal of recyclable materials by the generator from the solid waste that is to be landfilled.

(w) "Special waste" means this waste shall have the meaning defined in the Metro Code. The collection of special waste shall be controlled by this ordinance.

(x) "Transfer site" or "transfer facility" means a facility used as an adjunct to collection vehicles, a resource recovery facility, or a disposal site between the collection of the waste/solid waste and disposal site, including but not limited to a concrete slab, pit, building, hopper, railroad gondola or barge. Transfer site or transfer facility may also mean resource recovery facility where mixed materials are brought and sorted to remove recyclable materials. Transfer site or transfer facility does not include a self-propelled, compactor type solid waste collection vehicle into which scooter, pickups, small packers or other satellite collection vehicles dump collected solid waste for transport to a transfer site, disposal site, landfill or resource recovery site or facility.

(y) "Waste" means useless or discarded materials.

(z) "Yard debris" means organic solid waste material generated from residential or commercial landscaping or gardening activities and includes grass clippings, branches, shrubs, weeds and other woody waste not larger than six inches in diameter.

#### **Section 4. Exclusive franchise and exceptions.**

(a) **Exclusive franchise.** Pursuant to the Tualatin City Charter, section 4 and ORS 459A.085, the City hereby exercises its authority to franchise the service and solid waste management service within the City. When a franchise is granted by the City under this ordinance, the franchise shall be the exclusive right, privilege and franchise to provide service and solid waste management service within a defined geographic boundary within the City as of the date the franchise is granted. For the purpose of this franchise, the franchisee shall have the exclusive right to use the public rights-of-way of the City. Except as otherwise provided in this ordinance, no other person shall provide, offer to provide, or advertise for the performance of service or solid waste management

service for any person on any real property in the City.

(b) Except as provided in paragraph (3) of this subsection, the following person are declared the holders of an exclusive franchise to conduct solid waste collection, solid waste management and resource recovery within the City:

(1) For all territory located within the City, except for property lying east of the Interstate 5 freeway and north of the Tualatin River and further excepting property east of SW 50<sup>th</sup> Avenue and south of the Tualatin River, United Disposal Service, Inc., 9500 SW Boechman Road, Wilsonville, Oregon 97070.

(2) For all territory located within the City limits, east of the Interstate 5 Freeway and north of the Tualatin River, and east of SW 50<sup>th</sup> Avenue and south of the Tualatin River, Rossman Sanitary Service Inc., 100 S. Wilda Road, West Linn, OR 97034.

(3) The holder of an exclusive franchise within the City to conduct a drop box pickup and disposal service is Keller Drop Box, Inc., 10295 SW Ridder Road, Wilsonville, Oregon 97070.

(c) Regulations may be adopted by resolution of the City Council to administer this ordinance.

(d) The exclusive right, privilege, and franchise granted under subsection (a) is subject to the following exceptions:

(1) A person may engage in the collection of source separated materials for recycling or resource recovery, but only for the purpose of raising funds for a charitable, civic or benevolent activity under the following conditions:

(A) Such activity shall be conducted in accordance with the terms and conditions in this ordinance, regulations adopted under this ordinance and the notice submitted to the City as required.

(B) A prior written notice of such activity shall be prepared and signed by the person intending to engage in such activity, or an authorized representative and delivered to the City, which notice shall specify the geographic areas and times in which such activities are intended to take place.

(2) A person may transport solid waste that such person produces, directly to an authorized disposal site or recycling or resource recovery facility. The solid waste produced by a tenant, licensee, occupant or person other than the owner of the leased, occupied or licensed premises shall be considered produced by the tenant, licensee, occupant or person and not produced by the landlord or property owner.

(3) A person may contract with the State or a federal agency to provide service to such agency under a written contract with such agency.

(4) The Council may grant an exclusive franchise to provide drop box service.

(5) A person may engage in the practice of towing or otherwise removing damaged, discarded or abandoned vehicles or parts of vehicles, so long as such activity is conducted in compliance with applicable state and local laws.

(6) A person may engage in the practice of pumping, transportation, and disposal of septic tank and cesspool pumpings or other sludge, provided such activity is conducted in compliance with applicable state and local laws.

(7) A person who engages in an occupations, such as gardener, landscaper, grounds keeper, or construction contractor for a property owner or tenant in

the City and who produces thereby small volumes of solid waste as a result of such work for a property owner or tenant in the City may transport such solid waste in such person's own equipment where the solid waste produced is incidental to the particular job the person is performing.

#### **Section 5. Franchise term.**

The rights, privilege and franchise granted by this ordinance is considered as a continuing five-year franchise, subject to termination as follows:

(a) Unless grounds exist for suspension, modification or revocation of the franchise under this ordinance, the franchise is granted for a continuing five-year term. Upon the fifth anniversary of the grant or renewal of the franchise, the particular franchise shall be renewed for an additional five-year term unless the City sends written notice of termination to the franchisee. The City may give notice at any time, however, termination may not occur prior to five years following the notice of termination.

(b) If a franchisee desires to terminate service or solid waste management service under this ordinance, the franchisee shall give the City and any other franchisees not less than two years prior written notice of its intent to terminate service and obligations under the franchise and this ordinance.

(c) When a franchisee gives notice to voluntarily terminate the franchise, the remaining franchisees shall have the first right and option to purchase all or part of the equipment and geographic territory of the terminating franchisee at a price to be agreed upon by the parties. The remaining franchisees shall exercise this first right and option within six months following the notice by the terminating franchisee.

#### **Section 6. Franchise fee.**

(a) In consideration of the rights, privileges and franchise granted by this ordinance, the franchisee shall pay to the City three percent of the gross receipts collected each year by the franchisees for service, for solid waste management service, and for the sale of recycled materials within the City. Provided that the City gives at least 60 days advance written notice to the franchisee, the City may adjust the amount of the franchise fee by resolution in an amount not prohibited by law.

(b) Payment shall be made according to the following schedule: For the period from January through March, payment shall be made in the immediately following April; for the period from April through June, payments shall be made in the immediately following October; and for the period from October to December, payment shall be made in the immediately following January.

(c) Payments shall be accompanied by a complete statement setting forth the gross receipts collected during the preceding quarter. Upon request from the City, the franchisee shall provide written confirmation or other acceptable means of substantiation of particular items or information being submitted.

#### **Section 7. Franchise responsibility.**

(a) The franchisee shall dispose of solid waste collected at a site approved by the

City, Metropolitan Service District (Metro) and the Department of Environmental Quality (DEQ), and recover resources from the solid waste in compliance with ORS Chapter 459 and 459A and any rules and regulations adopted pursuant to those chapters, including but not limited to any solid waste reduction plan or plans adopted by the City by resolution in conjunction with Washington County and in furtherance of criteria approved for such plans by Metro and DEQ.

(b) The franchisee shall provide and keep in force a public liability insurance policy that provides coverage for bodily injury, including personal injury and property damage insurance, and including automobile coverage that will protect the franchisee from all things or damage that may arise from operations under or in connection with the franchise, including all operations of subcontractors. The insurance shall provide coverage for not less than \$100,000 for injury to a single person, \$500,000 to a group of persons within a single occurrence, and \$50,000 for property damage within a single occurrence or where the limits of liability for public bodies under ORS 30.270 are raised, then in accordance with such raised liability limits. The insurance shall be evidenced by a certificate of insurance filed with the City Recorder within 30 days of the granting of the franchise and thereafter upon renewal or modification of the policy. Such insurance shall be maintained in full force and effect and shall name the City of Tualatin, its officers, agents and employees as named insureds. The insurance shall not be modified or cancelled without at least 30 days prior written notice by certified mail to the City.

(c) The franchisee shall provide sufficient collection vehicles, containers, facilities, personnel and finances to provide all types of necessary service and solid waste management service; but where necessary the franchisee may subcontract with others to provide certain types of specialized service in accordance with this ordinance.

(d) Except as otherwise provided, all vehicles used in the collection and/or transportation of waste shall be equipped with a metal body of the compactor type that is leak-proof to the greatest extent possible. If a franchisee uses a specially designed, motorized local collection vehicle for transporting solid waste over short distances from residential or commercial stops to waiting trucks, the container portion of such vehicle shall be equipped with a cover, adequate to prevent scattering the load. If a pickup truck or open bed truck is used by a franchisee, the load shall be covered with an adequate cover to prevent scattering the load. All vehicles shall be operated in conformity with all ordinances of the City. All vehicles shall be properly licensed, registered and equipped in compliance with the State of Oregon's motor vehicle laws.

(e) The franchisee shall allow a pro rata credit on the regular monthly charge for service and waste management service where services are cancelled for three weeks or more, but no such prorate shall be allowed for services that are cancelled for less than three weeks.

(f) The franchisee is not obligated to provide service or solid waste management service to non-owners of property where the landlord or owner does not request and pay the bill, unless the payment has been guaranteed in advance by the property owner.

(g) The franchisee may terminate service and solid waste management service to a customer for non-payment by the customer within 45 days of the mailing of the bill. The franchisee may require advance payment in the future from a previously non-

paying customer before resuming service.

(h) Each franchisee shall furnish a bond in a form acceptable to the City that will insure the faithful performance by the franchisee of the service that the particular franchisee is required to provide under this ordinance. The amount of the bond shall be \$5000.

(i) The franchisee shall respond to any written or oral complaint regarding the franchisee's service no later than the work day immediately following the date of the complaint.

(j) The franchisee shall provide the Opportunity to Recycle in accordance with ORS chapter 459A. The franchisee shall comply with all rules and regulations adopted by the Department of Environmental Quality and the Metropolitan Service District, if any.

(k) The franchisee whose territory includes the following City-owned facilities shall provide service at those facilities at no charge to the City:

- (1) The Community Center;
- (2) The Senior Center;
- (3) The Laffy House;
- (4) The Community Park, located along the Tualatin River; and
- (5) The Parks Administration Building.

Such consideration shall be in addition to other consideration provided by such franchisee.

(l) Except as otherwise provided, the franchisee shall not give a rate preference to any person, locality or type of solid waste stored, collected, transported, disposed of, or resource recovered. This paragraph shall not prohibit uniform classes of rates based upon length of haul, time of haul, type or quantity of solid waste handled, or location of customers, so long as such rates are reasonably based upon the cost of the particular service and are approved by the City Council in the same manner as other rates. This provision shall not prohibit the franchisee from negotiating for or agreeing to either purchase or charge from recyclable materials collected from commercial customers based on quantity or quality of such materials, so long as comparable rates are offered to customers of the same class.

(m) The franchisee shall not assign or transfer the franchise, a part of the franchise, or any thing pertaining to the franchise without the approval of the City Council. The Council may approve the assignment or transfer if the proposed transferee qualifies for service under all applicable standards and requirements of this ordinance, state law and regulations. Nothing contained in this ordinance shall be construed as prohibiting a pledge or assignment an interest in the franchise or monies due for service as financial security by a franchisee so long as the franchisee remains primarily responsible for obligations under this ordinance. Such assignment shall be subject to all proper setoffs in the nature of franchise fees owing to the City.

(n) The franchisees shall be responsible for providing collection of infectious waste, as defined in ORS 459.386, either directly or through a sub-contract, subject to the prior approval by the City. Such collection shall be provided in a manner that meets the requirements of state statutes and regulations promulgated by the Department of Environmental Quality and the State Health Division.

**Section 8. Service provided under this franchise shall be subject to the**

supervision of the City Manager or the City Manager's designee. The franchisee shall, at reasonable times, permit inspection of this facilities, equipment, personnel and records as they relate to the service and solid waste management service provided under this ordinance. The franchisee shall file an annual report in the manner provided by the City by resolution.

#### **Section 9. Suspension, Modification or Revocation of Franchise.**

(a) The City Council may suspend, modify or revoke a franchise upon a finding that the holder of the franchise has committed any of the following acts:

(1) Willfully violated this ordinance or ORS Chapter 459 or 459A or any rule promulgated under these chapters;

(2) Materially misrepresented statements in an application for a franchise, the annual report of gross receipts or any other report, including but not limited to a recycling or solid waste management program report;

(3) Willfully refused to provide adequate service in the defined service area;

(4) Willfully refused a request for inspection of facilities, equipment, personnel or records;

(5) Operated or provided service or waste management service within the city limits without a franchise or in violation of a franchise or condition attached to such franchise from the City Council.

(b) When the City Council, the City Manager, or the City Manager's designee receives information, indicating a violation of this section, the City shall provide a written notice of such violation to the non-complying franchisee. The notice shall provide a description of the alleged violation, and shall provide a reasonable opportunity to correct the violation.

(c) Upon receipt of the written notice of violation, the non-complying franchisee shall have 30 days from the date the notice was mailed to comply or to request a public hearing before the City Council. The franchisee's request for a public hearing must be in writing. If a public hearing is held, the franchisee and other interested persons shall have a reasonable opportunity to present information and testimony in oral, written and electronic form.

(d) The Council shall adopt written findings of fact and conclusions that will support or deny the alleged violations. On the basis of such findings, the Council may suspend, modify or revoke the franchise of the non-complying franchisee or condition such action upon continued non-compliance with the alleged violation. The franchisee shall comply with the time specified in the notice or with the order of the City Council.

#### **Section 10. Preventing Interruption of Service.**

If the City Council finds an immediate and serious danger to the public that creates a health hazard or serious public nuisance, the City Council may, after not less than 24 hours prior to written notice to the particular franchisee, authorize another person to temporarily provide service under this ordinance, or the City may elect to provide the service itself. Upon request from the franchisee, a public hearing shall be

provided before the City Council. However, unless the Council decision to authorize another person to provide temporary service is rescinded, the temporary service may continue to be provided by another person or the City. The franchisee shall permit the use of franchisee's real property, facilities and/or equipment to provide such temporary service. The City Council shall cause the return of any such property of the franchisee upon abatement of the health or nuisance hazard. If the power under this section is exercised, the scheduled fees and charges for service shall prevail and the franchisee shall be entitled to collect those charges less any actual costs incurred by the City.

**Section 11. Services to be Provided; When Such Service May Be Interrupted or Terminated.**

(a) The franchisee shall collect solid waste and recyclable materials and provide other services more specifically described by the City by resolution at the various residences, business establishments, and other places within the City where such service is requested and required, promptly, and haul the solid waste and recyclable materials from the City upon the payment of the rates authorized by the rate schedule approved by the City Council by resolution.

(b) A franchisee shall not terminate service to any or all of its customers under this franchise except in accordance with this ordinance. Service may be interrupted or terminated when:

(c) The street or road access is unavoidably blocked through no fault of the franchisee if there is no reasonable alternative route or routes to serve all or a portion of its customers. In no event shall the City of Tualatin be liable for any such blocking of access; or

(d) Adverse weather conditions render providing service unduly hazardous to persons or equipment providing such service or if such interruption or termination is caused by an "act of God" or a public enemy.

**Section 12. Subcontracts.**

A franchisee shall not subcontract with another person on a regular, periodic or long-term basis to provide service or solid waste management service under this contract without prior Council approval. Such subcontract shall not relieve a franchisee of responsibility for compliance with this ordinance.

**Section 13. Rates.**

The rates for service under this ordinance shall be those rates currently in effect upon the adoption of this ordinance unless modified by the Council. The rates shall remain in effect until a change in rates is approved by the Council. The Council shall establish changes in rates by resolution as it considers necessary from time to time. In determining the appropriate rate to be charged by the franchisee, the Council may consider the following:

- (a) The cost of performing the service provided by the franchisee;
- (b) The anticipated increase in the cost of providing this service;

(c) The need for equipment replacement and the need for additional equipment to meet service needs; compliance with federal, state or local law or regulations; or technological change;

(d) The franchisee's investment, the value of the business and the necessity that the franchisee have a reasonable rate of return on revenue;

(e) The rates charged in other cities of similar size within the Portland-metropolitan area for similar service;

(f) The public interest in assuring reasonable rates to enable the franchisee to provide efficient and beneficial service to the residents and other users of the service;

(g) The local wage scales, cost of management facilities, landfill and dumping fees or charges;

(h) Any profit or cost savings resulting from recycling, and any additional costs resulting from recycling;

(i) Any increase or decrease in the franchise fee charged by the City; or

(j) Any other information deemed necessary for a rate review.

#### **Section 14. Public responsibility.**

(a) The franchisee, the City and the public shall comply with state law, including but not limited to ORS Chapter 459 and 459A, ORS Chapter 654 (Employment Safety and Health,) and ORS Chapter 656 (Workers' Compensation), and regulations promulgated under those laws by the Department of Environmental Quality, the Workers' Compensation Department, the State Accident Insurance Fund and the Waste Reduction Plan for the Washington County Watershed approved by the City Council. The rules for the administration of the Oregon Safe Employment Act and Oregon Occupational Safety and Health Code shall be complied with. The following requirements shall pertain to service under this ordinance:

(1) No garbage receptacle that is not designed for machine automated lift for individual residence service shall exceed 32 gallons in size nor weigh more than 60 pounds gross loaded weight. Cans shall be tapered so they are larger at the bottom. Sunken refuse cans or containers shall not be installed. All receptacles to be lifted by mechanical means shall be provided by the franchisee.

(2) To protect against injury to employees of the franchisees and to protect against rodent and fire danger, cans shall be rigid and composed of materials that resist splitting or cracking from changes in weather conditions.

(3) The customer shall provide safe access to the pickup point so as not to jeopardize the persons or equipment supplying service or the motoring public.

(4) No person, other than the generator of the materials placed in a container for collection or an employee of the franchisee shall interfere with or remove any solid waste or recycling container from the location where it has been placed by the generator for collection, or remove, alter or compact, either manually or mechanically, the contents of the container.

(5) No person shall place chemicals, paint, corrosive materials, infectious waste or hot ashes into a container placed for collection service, with the exception that household quantities of chemicals, paint and corrosive materials may be placed by household residents into their own solid waste container when prepared in such a

manner as to prevent spillage or leakage of the contents. When materials, customer abuse, fire or vandalism, cause excessive wear or damage to a container provided by the franchisee, the cost of repair or replacement may be charged to the collection customer.

(b) To protect the privacy, safety, pets and security of the customers, and to prevent unnecessary physical and legal risk to the franchisee and its employees, a residential customer shall place the container to be emptied outside any locked or latched gate and outside any garage or other building. Nothing contained in this paragraph shall prevent or discourage the use of site obscuring waste receptacle screening for commercial or industrial containers or drop boxes.

(c) Stationary compactors for handling solid waste shall comply with applicable federal and state safety regulations. No such compactor shall be loaded so as to exceed the safe loading design limit or operation limit of the collection vehicles used by the franchisees. A person who wished services for a compactor shall, prior to acquisition of such compactor, inquire of the franchisee as to compatibility with franchisee's equipment or equipment that the franchisee is willing to acquire. No person shall place solid waste or recyclable materials in a Drop Box in an amount that exceeds the legal weight limits of state and local laws or that exceeds the weight limits of manufacturer's specifications for the franchised collector's equipment. Drop boxes shall not be filled beyond the top of the box in order that they may be securely covered.

(d) Putrescible solid waste shall be removed from the premises of a customer at regular intervals not to exceed seven days.

(e) Except as otherwise expressly provided in this ordinance, any person who receives service shall be responsible for payment of the service.

#### **Section 15. Indemnity and Hold Harmless.**

(a) Notwithstanding the provision of insurance by the franchisee, the franchisee shall defend, indemnify and save the City harmless from liability or loss because of injury, including death, to any person or damage to any property that may occur or may be alleged to have arisen out of, connected with, or related to performance of service, solid waste management service or resource recovery as a result, directly or indirectly of franchisee's or its subcontractors' or their servants, agents or employee, acts or omission, and whether or not such injury or damage is jointly attributable to the City's fault or negligence. This obligation shall survive modification, termination or transfer of the franchise. In any and all claims against the City or its agents or employees, these indemnification obligations shall not be limited in any way by any limitation in the amount or type of damages, compensation or benefits payable by or for contractors, workers' compensation acts, disability acts, or other employee benefits.

(b) The franchisee shall make payment promptly, as due to all persons supplying franchisee labor or material for the prosecution of the work provided in this ordinance. The franchisee shall pay all contributions or amounts due the Industrial Accident Fund from such franchisee incurred in the performance of services under this ordinance. The franchisee shall not permit any claim to be filed or prosecuted against the City on account of any service provided. The franchisee shall pay all sums withheld for employees to the Department of Revenue pursuant to ORS 316.167 and other tax laws.

(c) The franchisee shall provide workers' compensation insurance coverage for all persons employed by the franchisee to perform service under this ordinance and assure that all workers will receive the compensation for compensable injuries provided in ORS Chapter 656 either by:

(1) Contributing to the State Accident Insurance Fund as a contributing employer; or

(2) Qualifying as a direct responsibility employer under ORS 656.403 to 656.443. The franchisee shall hold harmless and indemnify the City for any claims, suits, or actions by the franchisee's and all subcontractors' employees including their dependents and including investigations, adjusting and litigation of said claims, valid or not, occasioned by any work and/or services furnished or carried on under the terms of this ordinance.

(d) The franchisee shall make payment promptly as due to any person furnishing medical, surgical, hospital or other needed care and attention, incident to sickness or injuries to employees, of all sums that have been agreed to be paid for such services and all monies and sums that may be collected or deducted from employees wages pursuant to ORS Chapter 656 or any negotiated labor-management agreement or policy.

#### **Section 16. Franchisees' Service Requirements.**

(a) Subject to review and revision by the City Council, the franchisee may establish reasonable rules concerning the size, weight and location of containers or compactors, and concerning other matters directly affecting the safety of franchisees' employees and its ability to perform the service with available technology and equipment. The franchisee may also establish such reasonable rules as necessary to comply with weight limits, disposal site requirements, recycling requirements and general requirements of the Oregon Department of Environmental Quality.

(b) Upon the recommendation of the City Manager, if the City Council finds that an applicant for franchise or an existing franchisee under this ordinance cannot or is unwilling to provide service for the collection of solid waste or any required service as defined under this ordinance or resolutions adopted pursuant to this ordinance, the City Council may issue a franchise for joint service with another person who can or is willing to provide that service; provided that in all cases where the City Council finds that the applicant for or the existing franchisee is unable to provide adequate service for particular types or unusually large quantities of solid waste or waste or recyclable materials, the City Council may issue a temporary or permanent franchise to another person for the limited purpose of providing such service. Upon the recommendation of the City Manager, if the City Council finds that the need for service justifies action before a complete investigation and final determination can be made, the Council may issue a temporary franchise valid for a stated period not to exceed six months, entitling a person to serve a defined service area or customer or provide a particular service.

#### **Section 17. City Enforcement and Penalties.**

(a) The City, through its designated officers and employees, shall take

appropriate steps to protect the rights of the franchisee in the performance of services or waste management service and cooperate with the franchisee in protecting such rights.

(b) Except as otherwise provided, a violation of this ordinance is a civil infraction punishable by a fine not to exceed \$500. Each violation constitutes a separate offense, and each day that a violation is committed or permitted to continue, constitutes a separate offense.

(c) The rights and penalties provided in this ordinance are cumulative, not exclusive, and are in addition to other rights, remedies and penalties available to the City under law.

**Section 18. Annexations.** Upon the annexation to the City of additional territory, the provisions of ORS 459.085(3) shall be followed.

**Section 19. Violations.**

(a) It is unlawful for a person to provide or offer to provide solid waste management service in the City of Tualatin except as provided under Section 4 of this ordinance.

(b) It is unlawful for a person:

(1) Without the permission of the owner or generator of recyclable material to take recyclable materials set out to be collected by a person authorized by the City to provide collection service for that recyclable material, except in accordance with this ordinance;

(2) To remove any recyclable material from a container box, collection vehicle, depot, or other receptacle for the accumulation or storage of recyclable material without permission of the owner or City;

(3) To mix source separated recyclable materials with solid waste in a vehicle, box, container, or receptacle used in solid waste collection or disposal;

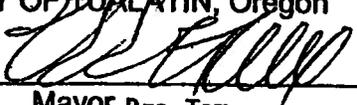
(4) To remove solid waste placed for collection by franchisee without the permission of the City or the franchisee.

(c) The violations listed in this Section are subject to the penalties set forth in Section 17 of this ordinance.

INTRODUCED AND ADOPTED by the Council this 27<sup>th</sup> day of May, 2003.

CITY OF TUALATIN, Oregon

BY

  
\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

BY

  
\_\_\_\_\_  
City Recorder



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL

Date

5-9-11

Recording Secretary

*M. G. Smith*

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Linda Odermott, Paralegal  
Brenda Braden, City Attorney

**DATE:** 05/09/2011

**SUBJECT:** Ordinance Amending the Sign Regulations to Allow an Electronic Message Display for a High School Campus in the RL Planning District; Amending TDC 31.060, 38.100 & 38.130-140 (PTA-11-02)

---

### ISSUE BEFORE THE COUNCIL:

Council will consider an Ordinance that would modify the Tualatin Development Code (TDC), Chapter 38 Sign Regulations to:

- Allow one electronic message display freestanding monument sign on a large high school property in the RL (Low-Density Residential) Planning District;
- Amending 38.140 to allow a monument sign with an electronic message display component subject to standards for size, brightness, duration of message display and hours of operation;
- Allow an electronic sign on a large high school campus property and requiring a minimum distance from residential properties;
- Continue to prohibit animated graphics or moving copy;
- Allowing LED illumination and revising the prohibited sign standards.

### RECOMMENDATION:

Staff recommends Council approve the Sign Code amendment proposed in PTA-11-02.

### EXECUTIVE SUMMARY:

On April 25, 2011 the Council held a public hearing on the plan text amendment requesting changes to the sign code to allow electronic message displays on a freestanding monument sign at the high school. At the conclusion of the public hearing, the Council approved the ordinance by a vote of 5-1 in favor, with Councilor Brooksby in opposition and Councilor Barhyte absent. Council instructed staff to bring back the Ordinance for adoption on May 9, 2011.

---

**Attachments:** PTA 11-02 Ordinance

ORDINANCE NO. 1322-11

AN ORDINANCE AMENDING THE SIGN REGULATIONS TO ALLOW AN ELECTRONIC MESSAGE DISPLAY FOR A HIGH SCHOOL CAMPUS IN THE RL PLANNING DISTRICT; AND AMENDING TDC 31.060, 38.100 and 38.130-140 (PTA-11-02)

WHEREAS upon the application of Kathy Stallkamp representing the Tualatin High Timberwolf Support Organization (THTSO), a Tualatin High School - school activity support group, a public hearing was held before the City Council of the City of Tualatin on April 25, 2011, related to a Plan Text Amendment of the TDC; and amending TDC (PTA-11-02); and

WHEREAS notice of public hearing was given as required under the Tualatin Development Code by publication on in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked "Exhibit A," attached and incorporated by this reference; and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and by mailing a copy of the notice to affected property owners, which is evidenced by the Affidavit of Mailing marked "Exhibit C;" and

WHEREAS the Council conducted a public hearing on April 25, 2011, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing, the Council vote resulted in approval of the application by a vote of [5-1; with Councilor Brooksby opposed and Councilor Barhyte absent],

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report dated April 25, 2011, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit D," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the City Council finds that it is in the best interest of the residents and inhabitants of the City and the public; the public interest will be served by adopting the amendment at this time; and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. The following definition is added to TDC 31.060 in alphabetical order to read as follows:

**Illumination, LED.** Lighting produced by a light-emitting-diode which emits visible light.

Section 2. TDC 38.100 is amended to read as follows:

(1) Location. Except for traffic control devices, public signs and special event banner signs, signs shall be located on private property outside of the public right-of-way and shall not extend over or into the public right-of-way. Signs shall not be constructed in or extend over or into easements for public sewer, water or storm drain lines or within five feet of such lines, or within the dripline of existing trees. Shingle signs in the Central Urban Renewal Areas Central Design District may extend over the publicly owned promenade, public sidewalks and private walkways.

(2) Vision Clearance Area. Signs may be located in vision clearance areas provided they do not extend into the space from higher than 24 inches above the curb, or if no curb exists from higher than 30 inches above grade, to lower than eight feet above the curb or grade, except as noted below in this subsection. Support structures, such as posts, for freestanding signs which extend higher than eight feet above grade may be located in a vision clearance area only if the combined total width of the support structures in the vision clearance area is one foot or less and the combined total depth of support structures in the vision clearance area is one foot or less.

(3) Pedestrian Area Clearance. Signs erected over or extending over private or public pedestrian walkways or paths shall provide a vertical clearance of at least eight feet from the surface of the walkway or path to the lowest portion of the sign.

(4) Signs Incorporated Into Fences. Except for signs at subdivision entrances located in a private tract median island within a public right-of-way, monument signs may be affixed to and be part of a masonry fence. Pole signs shall be affixed only to the ground.

(5) Copy. Copy shall be placed only on the sign face.

(6) Dedication for Right-of-Way. Signs and their structures and foundations shall be removed from property subject to dedication to the public before such dedication shall be accepted by the City.

(7) Illumination.

(a) Lights providing indirect illumination onto signs shall be directed so the source of light is not visible from the public right-of-way or from properties in residential planning districts.

(b) Neon or LED lighting is the only permitted lighting for direct illumination of all sign types except for electronic signs as described in TDC 38.140(2)(e). Neon,

LED, incandescent and fluorescent lighting are permitted for indirect or internal illumination.

(c) The surface brightness of any sign shall not exceed that produced by the diffused output obtained from 800 milliamperere fluorescent light sources spaced not closer than eight inches on center.

(8) Sign Maintenance and Repair. All signs shall be maintained in good order and repair at all times. Signs which have become faded, worn, damaged or are unsafe or pose a danger to the public shall be maintained, repaired or removed.

(9) Signage For Additional Uses in the Central Urban Renewal District and the Leveton Tax Increment Financing District. In specific situations the Tualatin Development Code permits selected uses from a given "home" planning district to locate in another "receiving" planning district as an additional use when the "receiving" district is in the Central Urban Renewal District or the Leveton Tax Increment Financing District. When an additional use exists in a "receiving" planning district, the sign regulations of the "home" planning district shall apply to the additional use. For example, the uses listed in the permitted use section of the General Commercial Planning District are permitted in Blocks 28 and 29 of the Central Urban Renewal District, which are in the Light Manufacturing Planning District, as additional uses. The General Commercial Planning District sign standards apply to a General Commercial use in Blocks 28 and 29 of the Central Urban Renewal District.

Section 3. TDC 38.130 is amended to read as follows:

Nothing contained in this section shall be construed to prohibit the display of national flags, state flags of the United States, special purpose districts, or local governments. The following signs or advertising devices are prohibited by this Chapter.

(1) A sign not specifically permitted by this Chapter, except as otherwise provided in Chapter 33 for approved sign variances and Chapter 35 for legal nonconforming signs.

(2) A sign required to have been issued a sign permit, but for which no sign permit has been issued.

(3) Any sign which is erected and fails to comply with sign regulations.

(4) A-frame (sandwich board) sign, except as otherwise provided in TDC 38.110(12), Lawn Signs.

(5) Abandoned sign.

(6) Animated sign.

(7) Balloons (including children's balloons and balloons inflated by blown, pumped or forced air); blimps, festoon lighting, inflatable signs, pennants and streamers.

(8) Bench sign or a sign on other furniture.

(9) Fin sign; flashing sign.

(10) Indirect illuminated signs which direct light into residential districts.

(11) Obscene sign.

(12) Obstructing sign.

(13) Portable sign, except as otherwise provided in TDC 38.110(5) and (12) for temporary banners and lawn signs, respectively.

(14) Readerboard sign, mechanical or electronic, except as otherwise provided in TDC 38.110(9)(k) and 38.225(1)(j) for directory signs, 38.140(2)(b) and (2)(d)(vii), 38.150(5)(b), 38.160(2)(b), 38.170(2)(b) and 38.180(2)(b) for schools and churches, 38.240(1)(a)(vii) for schools for kindergarten through 12, and 38.220(1)(c)(viii) and 38.220(1)(d)(vii) for cinemas, theaters and churches.

(15) Electronic message display sign or changing image sign, except as otherwise provided in TDC 38.140(2)(e) for a public high school located on a School District property in the RL Planning District with an area of 40 acres or greater.

(16) Roof sign.

~~(16)~~17) Rotating, revolving or moving signs.

~~(17)~~18) Search lights, beacons or strobe lights.

~~(18)~~19) Shingle/blade signs, except as otherwise provided in TDC 38.230(1)(b)(vii), 38.220(1)(d)(viii) and 38.225(1).

~~(19)~~20) Signs attached to trees.

~~(20)~~21) Snipe signs and nonpublic signs attached to or mounted on objects within the public right-of-way, such as on utility poles.

~~(21)~~22) Signs attached to or located on a stationary vehicle or trailer which is visible from a public right-of-way or parking lot or other area accessible to the public, and intended primarily for display of the sign.

~~(2223)~~ Signs resembling official traffic signs or signals, for example signs stating "stop," "go slow," "caution," "danger" and "warning," except officially authorized or installed by the City of Tualatin, State of Oregon or Washington or Clackamas County.

~~(2324)~~ Signs with visible incandescent bulbs or fluorescent tubes or signs with a visible immediate source of illumination, except neon. The erection or placement on any exterior portion of a building or structure of incandescent or fluorescent illumination is prohibited, except incandescent bulbs of less than 15 watts during the period November 1 through January 10.

~~(2425)~~ Signs which have lost their status as legal signs either due to alteration, modification, relocation or replacement without first obtaining a sign permit when a sign permit is required.

~~(2526)~~ Signs associated with illegal uses according to the provisions of the Tualatin Development Code or decisions on applications made pursuant to the Tualatin Development Code.

~~(2627)~~ Signs which constitute a public nuisance.

~~(2728)~~ Unsafe signs.

~~(2829)~~ Signs which incorporate flames or emit sounds or odors.

~~(2930)~~ Electrical signs whose electricity is provided by any means except underground wiring.

~~(3031)~~ Signs supported in whole or in part by cables or guy wires or which have cables or guy wires extending to or from them.

~~(3132)~~ Permanent signs on a property with no building.

~~(3233)~~ Permanent signs on a building with no occupants.

Section 4. TDC 38.140 is amended to read as follows:

(1) No sign shall be permitted in the RL Planning District for permitted uses and conditional uses that allow single family dwellings except the following:

(a) Subdivision, home occupation and public transit shelter signs in accordance with TDC 38.110(15), (11) and (14).

(2) No sign shall be permitted in the RL Planning District for conditional uses other than single family dwellings except the following:

(a) Subdivision, home occupation and public transit shelter signs in accordance with TDC 38.110(15), (11) and (14).

(b) Monument signs are permitted. If used, the following standards apply.

(i) Number: One per frontage on a public street right-of-way, and no more than one on each frontage.

(ii) Number of Sides: No more than two.

(iii) Height Above Grade: No higher than five feet.

(iv) Area: No more than 18 square feet.

(v) Illumination: Indirect.

(vi) Location: No greater than 30 feet from the frontage property line along the public street right-of-way.

(vii) For churches the sign may be an internally illuminated mechanical readerboard provided it is on the frontage of an arterial or collector street designated in the TDC, Table 11-2, and the readerboard portion is no more than 75 per cent of the allowed sign face area.

(c) Wall signs are permitted. If used, the following standards apply:

(i) Number: In addition to the monument signs permitted in TDC 38.140(2)(b) above, each building on the site is permitted one wall sign, provided that the building has no less than 2000 square feet of gross floor area.

(ii) Number of Sides: No more than one.

(iii) Height Above Grade: No higher than the height of the sign band.

(iv) Area: One wall sign on one of the buildings shall be no more than 16 square feet. Wall signs on all other buildings shall be no more than eight square feet.

(v) Illumination: Indirect.

(d) In place of one of the monument signs allowed in TDC 38.140(2)(b) above, public K-12 schools are permitted pole signs subject to the following standards:

(i) Number: One per school site. Not allowed on a public high school site where an electronic message display monument sign subject to TDC 38.140(2)(e) is present.

(ii) Number of Sides: No more than two.

(iii) Height Above Grade: No higher than 15 feet.

(iv) Height of Sign Face: No higher than five feet.

(v) Area: No more than 35 square feet.

(vi) Illumination: Internal or indirect.

(vii) Mechanical Readerboard: The sign may be a mechanical readerboard.

(viii) Location: Elementary school readerboards shall be on an arterial public street right-of-way frontage or a collector frontage if no arterial frontage exists.

(e) In addition to a monument sign allowed in TDC 38.140(2)(b) above, a public high school (Grades 9-12) on a property of 40 acres or larger in area is permitted one freestanding monument sign with an electronic message display subject to the following standards:

(i) Number: One per school site.

(ii) Number of Sides: No more than two.

(iii) Height Above Grade: No higher than 8 feet.

(iv) Height of Sign Face: No higher than six feet.

(v) Area of Sign Face: No more than 32 square feet with the electronic display occupying no more than 75% of the sign face area.

(vi) Illumination of non-electronic sign face: Internal including halo effect illumination.

(vii) Electronic Message display shall have a maximum transition time between messages of 2 seconds, have a minimum display time where the image remains static for a period of 20 seconds or more; have a maximum luminance of 500 candelas per square meter after sunset and before sunrise; and shall be equipped with an automatic dimming feature that adjusts for ambient light levels.

(viii) Time of operation: Electronic message display is restricted from the hours of 10:00 pm. to 7:00 am.

(ix) Location: An electronic message display shall be located within 30 ft. of an arterial public street right-of-way frontage and no closer than 100 ft. to a residential property.

(f) In place of the wall signs allowed in TDC 38.140(2)(c) above, public schools are permitted wall signs subject to the following standards:

(i) Number: Each building on the school site is permitted wall signage on each elevation. One sign per elevation is allowed.

(ii) Number of Sides: No more than one.

(iii) Height Above Grade: No higher than the height of the sign band.

(iv) Height of Sign Face: No higher than five feet, except that one wall sign on the east elevation of the primary building at a public high school may be up to 10 feet in height.

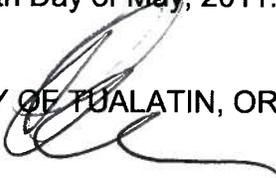
(v) Area: No more than 75 square feet, except one wall sign on the east elevation of the primary building at a public high school shall not exceed 300 square feet.

(vi) Illumination: Internal or indirect.

(3) See TDC 38.110(5-15) for additional signage and if used, the standards of TDC 38.110(5-15) apply.

INTRODUCED AND ADOPTED this 9th Day of May, 2011.

CITY OF TUALATIN, OREGON

BY  \_\_\_\_\_  
Mayor

ATTEST:

BY  \_\_\_\_\_  
City Recorder

ITEMS REFERRED TO AS EXHIBITS IN THE FOREGOING ORDINANCE ARE ATTACHED TO THE ORIGINAL. THEY HAVE BEEN OMITTED FROM THE COUNCIL PACKET AS A CONSERVATION MEASURE. IF THESE EXHIBITS NEED TO BE EXAMINED, PLEASE CONTACT THE CITY RECORDER.