

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

**AMENDING WHATCOM COUNTY CODE 8.10, SOLID WASTE AND RESIDENTIAL  
RECYCLING COLLECTION, REGARDING SOLID WASTE COLLECTION IN POINT  
ROBERTS, WA**

**WHEREAS**, as per RCW 81. 77, Solid Waste Collection Companies and WAC 480-70, Solid Waste and /or Refuse Collection Companies, the Washington Utilities and Transportation Commission (WUTC) is the jurisdictional regulatory authority for all solid waste collection companies in Washington State; and

**WHEREAS**, WUTC by law regulates solid waste collection companies as 'investor-owned utilities' subject to rigorous tariff-based services and rate structure oversight, with annual financial reporting and targeted fixed rates of return; and

**WHEREAS**, as per WCC 8.10.010 A, Policies expressed in Whatcom County's 2008 Comprehensive Solid and Hazardous Waste Management Plan ("plan") make waste reduction and recycling the preferred methods of handling solid waste. The purpose of this chapter is to specify service levels and rate structures for recycling and solid waste collection that encourage recycling and waste reduction, that protect the public health and safety, and to ensure that, to the maximum extent practicable, only the remainder after separation should be incinerated or landfilled; and

**WHEREAS**, as per WCC 8. 11, Solid Waste Recycling and Collection District, the Whatcom County Council is the governing body of the recycling and collection district; and,

**WHEREAS**, the Point Roberts Community Advisory Committee (PRCAC) is the body appointed to advise the Executive and County Council on behalf of the Point Roberts community, and

**WHEREAS**, in May 2016 staff engaged with the PRCAC to conduct a review of solid waste collection in Point Roberts; and

**WHEREAS**, as a result of the review the PRCAC recommended the County Council require participation in collection services at a minimum service level of twice monthly pickup of a 32 gallon can; and

**WHEREAS**, the County Council approved ordinance #2018-031 on September 25, 2018 which implemented the recommended minimum level of service to be charged and collected by the County; and

**WHEREAS**, upon approval the County Council agreed to review the required number of picks after one full year of implementation; and

**WHEREAS**, the County is directly collecting the minimum service amount and corresponding tax revenue on behalf of the vendor; and

**WHEREAS**, WCC 8.13.030 authorizes the County to charge a tax rate of \$8.50 per ton for solid waste; and

1           **WHEREAS**, the Point Roberts garbage was charged a tax rate of \$22.88 per ton for  
2 the first year of mandatory service; and

3  
4           **WHEREAS**, the County, as the organization responsible for charging and collecting  
5 fees for the service, collected an extra \$14.38 per ton of solid waste; and

6  
7           **WHEREAS**, this puts the burden and responsibility for calculating and refunding the  
8 additional tax revenue to homeowners; and

9  
10          **WHEREAS**, the County does not provide billing and accounts receivable as a service  
11 to any other private organization; and

12  
13          **WHEREAS**, the County does not have the ability to track the correct tonnage of  
14 waste collected by the service provider per year; and

15  
16          **WHEREAS**, without knowing the correct amount of annual tonnage collect each year  
17 the County is unable to calculate and refund the excess tax revenue; and

18  
19          **WHEREAS**, 18 months of service have been completed; and

20  
21          **WHEREAS**, Exhibit B is an updated recommendation from the PRCAC requesting the  
22 minimum level of service be reduce to one can per month charged directly by the service  
23 provider; and

24  
25          **WHEREAS**, implementing this recommendation would satisfy all parties within Point  
26 Roberts; and

27  
28          **WHEREAS**, implementing this service would remove the burden of collecting and  
29 refunding revenue on behalf of the service provider; and

30  
31          **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that WCC  
32 8. 10, Solid Waste and Residential Recycling Collection is amended as shown in Exhibit A  
33 attached hereto

34  
35          **ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

36  
37  
38  
39 ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

40  
41  
42 \_\_\_\_\_  
Dana Brown-Davis, Clerk of the Council

\_\_\_\_\_  
Barry Buchanan, Council Chair

43  
44  
45 WHATCOM COUNTY EXECUTIVE  
46 APPROVED AS TO FORM:

\_\_\_\_\_  
WHATCOM COUNTY, WASHINGTON

47  
48  
49  
50 \_\_\_\_\_  
Civil Deputy Prosecutor

\_\_\_\_\_  
(Current Executive's Name),  
County Executive

51  
52  
53 ( ) Approved      ( ) Denied

54  
55 Date Signed: \_\_\_\_\_

# EXIHIBIT A

## Chapter 8.10

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

Sections:

**8.10.010 Purpose.**

**8.10.020 Findings.**

**8.10.030 Definitions.**

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

**8.10.050 Residential recycling collection.**

**8.10.060 Nonresidential and multifamily garbage collection.**

**8.10.070 Submittal of documents and notices.**

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

**8.10.090 Modification of collection schedules.**

**8.10.100 Severability.**

8.10.010 Purpose.

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

B. Certain service levels and rate structures for solid waste and recycling collection are hereby established in Whatcom County to further the objectives of the plan, including a high level of waste reduction and recycling; to ensure the provision of such solid waste collection and disposal systems and services as are in the public interest; and to secure a healthful environment for all citizens of Whatcom County. (Ord. 2018-031 Exh. B; Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

#### 8.10.020 Findings.

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

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

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

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

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

E. Adoption of the ordinance codified in this chapter is necessary for the protection of natural resources and the environment, the immediate preservation of the public health and welfare and the support of governmental activities. (Ord. 2018-031 Exh. B; Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

#### 8.10.030 Definitions.

As used in this chapter:

A. "Carrier" means a common, contract or private carrier as defined by RCW [81.80.010](#).

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

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

D. "Multifamily dwelling" means a residential dwelling containing five or more units on one lot or parcel.

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

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

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

H. "Solid waste" shall have the meaning given to it by RCW [70.95.030](#).

I. "Solid waste collection companies" means those entities defined by Chapter [81.77](#) RCW and certified by the UTC to operate in Whatcom County. Solid waste collection companies are Sanitary Services Company (UTC No. G-14); Nooksack Valley Disposal, Inc. (UTC No. G-166); Waste Management of Washington, Inc. (No. G-237); and Freedom 2000 LLC, dba Cando Recycling and Disposal (UTC G063819). (Ord. 2018-031 Exh. B; Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

#### [8.10.040 Single-family residential garbage collection.](#)

A. Solid waste collection companies shall perform collection and hauling of garbage from single-family residences that request collection service in unincorporated portions of Whatcom County. Service to single-family residences shall be provided on a schedule of either weekly, every-other-week or monthly collection.

B. Garbage containers provided by and for single-family residences shall be 30 to 32 gallons and 15 to 20 gallons. Solid waste collection companies may also offer 60- or 90-gallon containers. A specific size within the 15- to 20-gallon "mini-can" range shall be approved by each company and shall be consistent within its certified service area. Ninety-gallon can service shall be available only on a weekly or every-other-week basis. The design of all containers within each service area shall be subject to approval by the solid waste collection company certified for that area.

C. Collection rate structures shall be designed to encourage waste reduction and recycling and to comply with the plan.

~~D. Effective January 1, 2019, single-family residences located in Point Roberts, with on-site sewage systems, shall no longer be exempt from mandatory curbside collection services. As a minimum level of service, the minimum required curbside collection service shall be 26 annual pickups, to occur at the~~

~~discretion of the customer on any day of the approved every other week garbage collection schedule, of a 32-gallon can and three-bin source separated recyclables. The cost of the minimum level of service, as per the approved UTC tariff, shall be billed as an annual fee on the property tax bill, at the rate of one minimum level of service per single family residence. Service levels above the minimum level of service, as may be requested of the service provider, for larger cans, increased frequency of pickup, carry out or other services, will be invoiced directly by the service provider as per the approved UTC tariff. (Ord. 2018-031 Exh. B; Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).~~

D. Improved single family residences located in Point Roberts, shall no longer be exempt from mandatory curbside collection services. As a minimum level of service, the minimum required curbside collection service shall be 12 annual pickups, to occur at the discretion of the customer on any day of the approved every other week garbage collection schedule, of a 32-gallon can and three-bin source separated recyclables. The cost of the minimum level of service, as per the approved UTC tariff, shall be billed at the rate of one minimum level of service per single-family residence, invoiced directly by the service provider per WAC 480-70-396. Service levels above the minimum level of service, as may be requested of the service provider, for larger cans, increased frequency of pickup, carry out or other services, as per the approved UTC tariff. (Ord. 2018-031 Exh. B; Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

#### 8.10.050 Residential recycling collection.

A. Solid waste collection companies shall collect source-separated recyclables from all residences in unincorporated portions of Whatcom County that receive regularly scheduled garbage collection. All single-family residences shall be provided with recycling collection at least every other week and on the same day of the week as garbage collection. Service to multifamily residences shall be provided at least every other week. The solid waste collection company shall provide residents who have completed the garbage exemption process the opportunity to subscribe to recycling-only collection service without subscribing to garbage collection. Recycling-only customers will be charged the full cost of recycling collection service plus an appropriate administrative/billing fee.

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

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

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

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

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

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

E. In case of missed collection, the solid waste collection company shall investigate and, if the missed collection is verified, shall arrange for the collection of the uncollected recyclable material within one business day after the complaint is received, unless otherwise agreed by the company and customer. All

solid waste collection companies shall add staff as needed to answer questions and respond to complaints from 8:00 a.m. to 5:00 p.m. on collection days.

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

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

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

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

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

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



L. Should the county or the solid waste collection company determine that there is no reasonable market for a material and/or the cost of recycling that material is unreasonable, they can petition the executive to eliminate the requirement for that material to be collected as a recyclable. The executive has full discretion whether to accept or deny the request. The executive must state the period of time the exemption will be allowed. (Ord. 2018-031 Exh. B; Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

#### 8.10.060 Nonresidential and multifamily garbage collection.

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

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

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

D. Solid waste collection companies shall bill each customer at least once every three months. (Ord. 2018-031 Exh. B; Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

#### 8.10.070 Submittal of documents and notices.

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

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

- a. Daily disposal tonnages to and from municipal disposal facilities for each primary disposal or processing method, transfer stations, and convenience centers;
- b. Monthly disposal tonnages from industrial and other private landfills;
- c. Monthly recycling tonnages per material from all recycling collectors and processors;

- d. Solid waste collection, disposal, and recycling collection and processing service contracts and amendments within incorporated and unincorporated areas of the county; and
- e. A log of all customer complaints about recycling, specifying the date, nature of complaint and resolution for each complaint.

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

- a. Monthly tonnages and, if available, volumes of materials collected by type of material collected, and revenues/costs by type of material;
- b. Number of eligible customers and number of set-outs per month. (Ord. 2018-031 Exh. B; Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

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

The Whatcom County council, pursuant to RCW [36.58.040](#), hereby notifies and requests the Utilities and Transportation Commission to carry out and implement the policies and programs specified in this chapter and in the plan in coordination with solid waste collection companies and common carriers through the Commission's rate setting and oversight authority. (Ord. 2018-031 Exh. B; Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

#### 8.10.090 Modification of collection schedules.

The provisions of this chapter concerning (A) the frequency of collection of recyclable materials and garbage; (B) service levels in rural areas; and (C) rate structures in the event that the UTC issues an inconsistent order may be modified by agreement of the county executive and all solid waste collection companies, subject to approval by the county council. (Ord. 2018-031 Exh. B; Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

#### 8.10.100 Severability.

If any portion or section of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the section to other persons or circumstances is not affected. (Ord. 2018-031 Exh. B; Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

## EXHIBIT B

October 16, 2020

Whatcom County Council  
311 Grande Avenue  
Suite 105  
Bellingham WA 98281

Sent via E-mail  
council@co.whatcom.wa.us

Re: Mandatory Curbside Service Levels

Dear Council:

On Thursday October 15, 2020, the Point Roberts Community Advisory Committee (PRCAC) voted at its regularly scheduled meeting (3-1-1(absent)) in favor of the following Motion:

The PRCAC hereby requests council to amend the current ordinance which mandates curbside residential garbage collection to reflect a change from 26 32-gallon cans variable to 12 32-gallon cans variable on an annual basis to better meet the needs of our community. We ask that WCC 8.10.040, subsection D, be amended to:

D. Effective January 1, 2021, single-family residences located in Point Roberts, with on-site sewage systems, shall no longer be exempt from mandatory curbside collection services. As a minimum level of service, the minimum required curbside collection service shall be 12 annual pickups, to occur at the discretion of the customer on any day of the approved every other week garbage collection schedule, of a 32-gallon can and three-bin source separated recyclables. The cost of the minimum level of service, as per the approved UTC tariff, shall be billed as an annual fee on the property tax bill, at the rate of one minimum level of service per single-family residence. Service levels above the minimum level of service, as may be requested of the service provider, for larger cans, increased frequency of pickup, carry out or other services, will be invoiced directly by the service provider as per the approved UTC tariff.

We note that Whatcom County policy, as expressed in its 2008 Comprehensive Solid and Hazardous Waste Management Plan, makes waste reduction and recycling the preferred methods of handling solid waste. To quote from Whatcom County Code on Solid Waste and Residential Recycling Collection, Chapter 8.10.010B “Certain service levels and rate structures for solid waste and recycling collection are hereby established in Whatcom County to further the objectives of the plan, including a high level of waste reduction and recycling; to ensure the provision of such solid waste collection and disposal systems and services as are in the public interest; and to secure a healthful environment for all citizens of Whatcom County”

The PRCAC will continue to discuss these issues within our community and work to further these shared goals in solid waste management. To that end, we currently are working with Beth Chisholm of WSU Extension in a series of online workshops which start October 22, 2020.

Thank you,

*Stephen T. Falk*

Stephen T. Falk  
Chair, PRCAC