



DATE: June 30, 2021

TO: Garbage and Recycling Advisory Committee

FROM: Thomas Egleston, Solid Waste & Recycling Manager
Kathy Folsom, Senior Policy Coordinator

RE: Ridwell, Inc. Exemption Request from the Requirement to Obtain a Certificate

Background

For a monthly fee, Ridwell, Inc.'s (Ridwell) business collects hard-to-recycle materials from community members at their home. Currently, the materials that Ridwell collects are not included in Washington County's curbside recycling program such as plastic film, household light bulbs, clothing, and Styrofoam.

On May 4, 2021, Ridwell sent a letter to Washington County requesting an exemption from the requirement to obtain a certificate pursuant to WCC 8.04.130(C). Washington County Code (WCC) Chapter 8.04.120 – Certificate Issuance, requires that any person that collects, stores, transports, or disposes of any waste or solid waste for compensation (a fee) in unincorporated Washington County must obtain a certificate issued by the Board.

On June 10, 2021, as required by WCC 8.04.130(C) when reviewing a request for an exemption from the requirement to obtain a certificate, your Committee held a public hearing to gather information and make findings. After the conclusion of the public hearing, your Committee requested that the item be brought back to a future meeting to allow for further discussion.

Issue to be Decided

The issue to be decided by the Committee is whether the “practice” of collecting certain wastes for recycling for compensation should be exempt from the requirement of obtaining a certificate?

That decision is based on an evaluation of whether the practice of collecting those specific wastes is *“not necessary to the implementation of the county or a regional solid waste management plan.”* If that determination is made, Ridwell or other companies including the certificated collection companies, would be allowed to collect specific materials for a fee that are not included in the County's current curbside recycling program but still could be collected for recycling or reuse from individual households.

If the Committee favorably recommends to the Board that the exemption request should be granted, it will need to provide the “findings” relied upon in making their decision.

County or Regional Solid Waste Management Plan

Washington County currently does not maintain a “solid waste management plan”. However, the Solid Waste and Recycling Administrative Rules govern the collection, transportation, and disposal

of solid waste within the unincorporated areas of the county. Pursuant to the Solid Waste and Recycling Administrative Rules, certificated solid waste collection companies are required to collect certain mixed recycling materials from residential, commercial, and multifamily customers as listed in Section 14, Subsections M, N and O. Those Sections do not reference the specific hard-to-recycle “wastes” currently collected by Ridwell.

In March 2019, Metro adopted the 2030 Regional Waste Plan (RWP). The RWP is considered the Metro region’s solid waste management plan, as required by the Oregon Department of Environmental Quality (DEQ). The RWP guides regional “programs, services and facilities related to solid waste management and disposal”, “including waste reduction, collection, transfer and disposal.” Sections of the RWP that provide guidance when evaluating the “practice” of collecting certain hard-to-recycle “wastes” for recycling for compensation include:

- Action 10.1: Provide comprehensive collection services and supporting education and assistance for source-separated recyclables, source separated food scraps and garbage, in compliance with state, regional and local requirements, including the Regional Service Standard, Business Recycling Requirement and Business Food Waste Requirement in Metro Code. (Directive Action)
- Action 12.5: Regulate collection of solid waste materials by collectors not otherwise regulated by local governments. (Non-Directive Action)
- Action 14.5: Evaluate alternative models for collection, processing, and transfer services to identify which would deliver the best environmental, financial, efficiency and equity outcomes. (Non-Directive Action)

At this time, it is unclear that these RWP actions apply to the “practice” of collecting for a fee certain hard-to-recycle “wastes” to be recycled or reused. To determine that the “practice” of collecting these items is necessary to the implementation of the RWP will require more definition as the plan is implemented.

Options for Consideration

In considering this exemption request your Committee may recommend one of two options. Your Committee may either recommend that Ridwell’s exemption request be approved by the Board or that the request be denied.

Result of unfavorable recommendation

If your Committee does not favorably recommend that the Board grant an exemption for the collection of certain hard to recycle items for a fee, and the Board concurs with that option, then Ridwell and other businesses operating a similar service would not be allowed to operate in the unincorporated areas of the county. Certificated haulers would retain the exclusive right to collect hard-to-recycle materials for compensation. Ridwell would need to cease its collection service or would be faced with enforcement actions for failing to do so.

For certificated haulers to provide the service, the Solid Waste and Recycling Administrative Rules would need to be amended to include additional materials and service options that are not available today. Additionally, the County would work to determine and set fair and equitable collection rates for the new collection service. Service standards and rates would need to be set in a manner to ensure compliance with ORS 459A and other applicable local and regional rules.

Also, the practice of collecting certain hard-to-recycle materials would need to be assessed against the current plans, including guidance from the Regional Waste Plan, for potential collection service program changes. Currently, staff has been analyzing a potential residential food waste collection

program and other changes that may be prioritized based on their environmental, financial, efficiency and equity outcomes.

Result of a favorable recommendation

If your Committee favorably recommends that the Board grant an exemption for the practice of collecting certain hard-to-recycle items for a fee, and the Board concurs with that option, then Ridwell and other businesses including certificated solid waste haulers providing a similar service would be allowed to operate in the unincorporated areas of the county.

Any business providing the collection service would be subject to exemption conditions, such as those outlined below, that may include reporting the volume and type of materials collected. The costs and revenues from the collection of certain hard-to-recycle items for a fee would not be included in the certificated haulers' annual detailed cost reports and would not be recovered through the County's annual rate review process.

In addition to businesses like Ridwell, certificated haulers would be able to offer the service on the open market without exclusive service areas. Rates and Administrative Rules for the service would not be developed by the County unless it was later determined that specific materials should be included in the regulated system.

Findings

Criterion. Washington County Code Chapter 80.130(C) Exemptions provides that certificates shall not be required of: "Other persons, practices, processes, businesses or wastes exempted by the board after receipt of a recommendation of the advisory committee on the basis of findings made after public hearing that the same is not necessary to the implementation of the county or a regional solid waste management plan."

Staff Findings:

1. The hard-to-recycle materials collected by Ridwell for a fee, for which an exemption is requested, are solid waste as defined by Washington County Code and therefore require a certificate for collection for a fee.
2. Washington County Code Section 8.04.130(C) provides that the Garbage and Recycling Advisory Committee may recommend an exemption to the requirement for obtaining a certificate for the practice of collecting certain hard-to-recycle materials if the same is not necessary to the implementation of the county or regional solid waste management plan.
3. Ridwell, Inc. requested that an exemption from the requirement to obtain a certificate be granted and, that the Garbage and Recycling Advisory Committee hold a public hearing on the matter.
4. On June 10, 2021, the Garbage and Recycling Advisory Committee held a public hearing to consider Ridwell's request for an exemption from the requirement to obtain a certificate for the practice of collecting solid waste materials for a fee, for reuse or recycling that are not included in the Administrative Rules.
5. The practice of collecting certain materials for which an exemption is requested includes items not included in the Administrative Rules as curbside recyclable materials and are not collected for recycling by certificated solid waste haulers.

6. The Regional Waste Plan does not include guidance directing the provision of collection services for the hard-to-recycle items included in the exemption request.
7. Community members have expressed support for the option to pay a fee for the collection of hard-to-recycle materials that are currently not included in the Administrative Rules.
8. Materials required to be collected for recycling in the Administrative Rules must have stable end-markets to ensure a consistent and unchanging list of allowable items.
9. Materials not included in the Administrative Rules may have unstable end-markets and are difficult to separate from other recyclable materials if comingled.
10. Granting an exemption for the practice of collecting for recycling or reuse materials that are not included in the County's Administrative Rules would provide community members with the opportunity to reuse and recycle materials with unstable end-markets that are not currently accepted in the curbside recycling program.
11. Granting an exemption for the practice of collecting for recycling or reuse materials that are not included in the County's Administrative Rules avoids upward pressure on garbage and recycling collection rates.
12. Granting an exemption for the practice of collecting for recycling or reuse materials that are not included in the County's Administrative Rules creates opportunities for small businesses to have the ability to provide additional services without the barrier of obtaining a certificate.
13. Granting an exemption for the practice of collecting for recycling or reuse materials that are not included in the County's Administrative Rules is not expected to affect the collection service levels provided by certificate holders as many of these materials are already self-hauled to drop-off locations.
14. Granting an exemption for the practice of collecting for recycling or reuse materials that are not included in the County's Administrative Rules would not prevent future changes to the materials required to be collected as set out in the Administrative Rules.
15. Adding more materials to the County's Administrative Rules in the future would expand the materials collected by the certificated solid waste haulers and reduce the materials allowed to be collected through the exemption.
16. Granting an exemption for the practice of collecting for recycling or reuse materials does not prevent any person or business, including certificated solid waste haulers, from collecting those materials for a fee, so long as they meet the conditions set forth in the granting of the exemption.

Staff finds that the criterion has been met: The practice of collecting items not included in the Administrative Rules for recycling or reuse for compensation is not necessary to the implementation of the Regional Waste Plan and may be exempted from the requirement of obtaining a certificate.

Exemption Conditions

If your Committee determines that it should favorably recommend to the Board of Commissioners that the exemption request be granted, that exemption may be subject to certain requirements.

Those requirements may include:

- Collecting only materials that are not included in the County's recycling program as defined in the Solid Waste and Recycling Administrative Rules.
- Confirmation that the materials being collected are in fact being recycled or reused.
- Collected materials are delivered to a location in accordance with all applicable local, regional, state, and federal rules and regulations.
- Data regarding the types and quantities of materials collected that is provided to the State of Oregon's material recovery survey is shared with Washington County.
- Costs associated with the practice of collecting hard-to-recycle materials under this exemption shall not be included in the certificated garbage and recycling rate-setting process.

Staff Recommendation

Staff recommends, based on the findings outlined above, that your Committee favorably recommend to the Board of Commissioners that the practice of collecting certain materials for recycling or reuse for a fee may be granted an exemption from the requirement to obtain a certificate.