



DATE: June 10, 2021

TO: Garbage and Recycling Advisory Committee

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

RE: Public hearing to consider exemption request from Ridwell, Inc.

Background and summary

Ridwell, Inc. (Ridwell) is a private company that seeks to help community members find ways to reuse, recycle and repurpose materials. For a monthly fee, Ridwell's 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.

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. The County currently has nine certificate holders that provide garbage and recycling collection services to over 65,000 households pursuant to the Solid Waste and Recycling Administrative Rules and Board-approved rates.

Complaint

On February 8, 2021, the Solid Waste & Recycling division received a complaint that Ridwell was operating in unincorporated Washington County, in violation of WCC 8.04. Subsequently, Washington County staff met with Ridwell to discuss their business plans and better understand the services that were being provided.

Code Violation

Upon review of Ridwell's program, staff found that the materials being collected by Ridwell are waste or solid waste because they are being discarded and are no longer wanted or are useless to the generator. As noted above, the collection of waste or solid waste for a fee requires a certificate issued by the Board. In a letter dated March 31, 2021, staff notified Ridwell of the finding that the collection services they were providing were in violation of WCC 8.04.120 and requested that Ridwell cease accepting new subscribers. Staff also outlined several provisions of the code that Ridwell might pursue in order to operate in accordance with WCC 8.04.

Exemption request

On May 4, 2021, Ridwell sent a letter (Exhibit A) to Washington County requesting an exemption from the requirement to obtain a certificate pursuant to WCC 8.04.130(C).

WCC Chapter 8.04.130(C) – Exemptions states that “certificates shall not be required of” “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 a public hearing that the same is not necessary to the implementation of the county or a regional solid waste management plan.”

In its letter, Ridwell “requests an exemption from the requirement to obtain a certificate for the collection, storage, transportation, and disposal (hereinafter referred to as “the collection”) of source separated recycling materials that are not designated or required to be collected thru Washington County’s Solid Waste and Recycling rules, Section 14(M)(c)(8) and 14(N)(g)(1), or otherwise designated by the County for recycling in its Recycling Guide (hereinafter referred to as “hard to recycle” materials).”

Staff interprets Ridwell’s letter to be a request to allow Ridwell, and other companies, to collect materials for a fee that are not included in the County’s curbside recycling program but still could be collected for recycling or reuse from individual households.

Ridwell’s request is that the Committee finds that the “practice” of collecting certain “wastes” for recycling for compensation (a fee) should be exempt from the requirement to obtain a certificate. In reviewing this request, the Committee will need to evaluate whether the “practice” of collecting these specific “wastes” is “not necessary to the implementation of the county or a regional solid waste management plan.”

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)

What these RWP actions specifically require and how they may apply to the “practice” of collecting for a fee certain hard-to-recycle “wastes” to be recycled have not been further defined.

Washington County Haulers Association Proposal

In a letter dated April 16, 2021 (Exhibit B), the Washington County Haulers Association (WCHA) proposed an expanded service option for collecting hard-to-recycle materials from residential customers. The proposed service may be offered as an “additional” collection service and therefore, would not be included in the monthly bundled regular garbage and recycling collection service and may be limited to certain customers. However, over time the services may be expanded to all customers.

The WCHA proposes that the County include this service in its regulated solid waste collection program through the development of service standards and rates. To achieve this, staff would need to amend the Solid Waste and Recycling Administrative Rules and the Garbage and Recycling Collection Rates to include this new service option – effectively making the “practice” of collecting these certain hard-to-recycle “wastes” part of the County’s solid waste management plan.

The WCHA collection service proposal envisions the customer placing an order for the collection from the household of certain hard-to-recycle materials for an additional fee beyond their regular monthly garbage and recycling collection rate. Staff has learned that this method of pricing collection service for hard-to-recycle materials for an extra cost may not be able to be part of the County-regulated solid waste collection program. Oregon Revised Statute (ORS) 459A.070 requires that Local Governments cannot create rate schedules where customers are charged more for the opportunity to recycle source-separated recyclable materials than they would be for garbage collection. By charging extra for hard-to-recycle material pick-up, the County may be in violation of ORS 459A.070.

However, including the expanded service option to all customers as part of their regular garbage and recycling collection bundled service, with all customers paying regardless of their participation, the program could be implemented without risk of violating ORS 459A.070.

Public hearing and findings determination

As required by WCC 8.04.130(C) when reviewing a request for an exemption from the requirement to obtain a certificate, your Committee needs to hold a public hearing to gather information and make findings. Your Committee may use the information provided by Ridwell in their letter (Exhibit A), the letter from the WCHA (Exhibit B), public testimony received during the public hearing, information contained in this staff report, or any other relevant facts to make findings as to whether the exemption request is “not necessary to the implementation of the county or a regional solid waste management plan.”

Staff recommendation

Staff recommends your Committee hold the public hearing to gather information from interested parties. Following the public hearing, your Committee will deliberate the topic and may choose to direct staff to assist in the development of findings for consideration at a future meeting.

Exhibits

Exhibit A – May 4, 2021 Ridwell, Inc. Letter

Exhibit B – April 16, 2021 Washington County Hauler Association Letter