BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING NEW
ISLAND COUNTY CODE CHAPTER 13.04,
MINIMUM LEVELS OF SERVICE FOR
RESIDENTIAL RECYCLING COLLECTION

ORDINANCE NO. C- SW- 21 -12

WHEREAS, Island County ("County") is charged by chapter 70.95 RCW with primary responsibility for solid waste management and for developing and implementing aggressive and effective source separation strategies; and

WHEREAS, the County has established a goal to recover and recycle 50 percent of solid wastes generated in accordance with Section 2.5 of the County-adopted Solid Waste and Moderate-Risk Waste Management Plan ("Plan"); and

WHEREAS, the County's rate of recycling has remained below 34 percent, as calculated by the Washington State Department of Ecology, since establishing the local recycle goal; and

WHEREAS, curbside recycling is identified in Section 6.4.2 of the Plan as a means to increase the recycling rate; and

WHEREAS, RCW 70.95.010(8) and RCW 70.95.092 permit the Board County Commissioners to establish minimum levels of service regarding the collection of trash and recycling; and

WHEREAS, the Board of County Commissioners desires to establish service levels for residential recycling collection from single family residences in areas of Island County that are not currently served by residential recycling collection, that is, the unincorporated areas of Whidbey Island as well as the City of Langley; and

WHEREAS, RCW 36.58.040(2) authorizes the Board of County Commissioners to notify the Washington Utilities and Transportation Commission in writing to implement the provisions of the recycling element of the Plan; NOW, THEREFORE,

IT IS HEREBY ORDAINED that Chapter 13.04 of the Island County Code, Minimum Levels of Service for Residential Recycling Services, attached hereto as Exhibit "A," is adopted.
ADOPTED this ___ day of ____________________, 2012 following public hearing.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

Helen Price Johnson, Chair

Kelly Emerson, Member

Angie Homola, Member

ATTEST:

__________________________
Elaine Marlow
Clerk of the Board

Approved as to form:

__________________________
David L. Jamieson, Jr.
Deputy Prosecuting Attorney and Island County Code Reviser
Exhibit "A"

Chapter 13.04
Minimum Levels of Service for Residential Recycling Collection

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13.04.010 Purpose and Intent

A. The purpose of this chapter is to define minimum levels of service (LOS) for curbside recycling collection, which shall be provided to households serviced by the solid waste collection company operating in urban and rural areas of Island County where a subscription curbside recycling system is not already in place.

B. It is the intent of the Board of County Commissioners to:

1. Establish residential recycling programs as an integral component of the collection of solid waste, incorporating the state’s goals to make "source separation of waste a fundamental strategy" and to "make recycling at least as affordable and convenient to the ratepayer as mixed waste disposal";

2. Increase diversion of recyclables from single-family and multifamily residences in Island County;

3. Make recycling easier and more convenient for residents through use of efficient collection systems;
4. Apply low-cost strategies to encourage participation; and

5. Encourage the private sector to develop and operate the recycling facilities that are needed to process and market recyclables collected in Island County and its cities and towns.

13.04.020 Applicability

This chapter shall apply to a certificated hauler serving the unincorporated areas of Island County and the City of Langley where a subscription curbside recycling system is not already in place at the date of this ordinance.

13.04.030 Definitions

For the purposes of this chapter, certain terms, phrases, and words, and their derivatives, shall have specific meanings as defined in this section. Terms, phrases, and words used in the singular shall also apply to the plural. Terms, phrases, and words used in the plural shall also apply to the singular.

A. **Automated recycling container** or **cart** means a wheeled, plastic receptacle designated for the collection of recyclables and designed to be picked up and emptied by mechanical means into the solid waste collection company's collection vehicle.

B. **Automated collection** means a route serviced by a vehicle with mechanical means to pick up recyclables at the customer's residence.

C. **Cities** means the cities and towns within Island County that have signed interlocal agreements with the Board of County Commissioners to adopt and implement the Island County Solid Waste Management Plan.

D. **Commodity credit** or charge means the amount of recycling revenue or expense returned to residential customers from the sale of recyclable materials collected through curbside residential programs, as required by the Washington Utilities and Transportation Commission.
E. **Curbside** means on the homeowner's property within five (5) feet of the public street, or directly adjacent to the homeowner's property at the curb of the public street, without blocking sidewalks, driveways or on-street parking. If extraordinary circumstances preclude such a location for purposes of the collection of recyclables, curbside shall mean an alternate location suitable to the customer and convenient to the contractor's equipment.

F. **Mobile home park** means a tract of land designed and maintained under a single ownership of unified control where two or more spaces or pads are provided solely for the placement of mobile or manufactured homes for residential purposes with or without charge. The “mobile home park” is billed for solid waste collection service as a whole and not by individual dwelling units.

G. **Multifamily residence** means any residential structure containing two or more dwelling units with the units joined to one another and where the structure is billed for solid waste collection service as a whole and not by individual dwelling units. This may include, but is not limited to, apartments and condominiums.

H. **Recyclable materials** or **recyclables** means those solid wastes that are separated for recycling or reuse and thus diverted from landfill disposal and as defined in 13.04.030 D. Materials listed may be removed and other materials may be added during the term of this ordinance as agreed to by the County and the collection company.

I. **Recycling rate** means the percentage rate achieved by dividing the total tonnage of recyclables by the sum of the total tonnage of waste disposed added to the total tonnage of recyclables in a calendar year.

J. **Set-out counts** mean the number of single-family residential customers that set out their recyclables containers any given collection day; or a monthly average of the set-outs as compared to total number of single-family customers.

K. **Single-family residence** means any residential dwelling receiving solid waste and recycling collection service where the owner or tenant is billed for solid waste collection service to the dwelling as an individual unit. This may include, but is not limited to, duplexes, mobile homes within mobile home subdivisions, or attached single-family structures such as townhouses, row houses, or triplexes.
L. Single-stream collection or modified single-stream collection means the collection of designated recyclables commingled in one covered, wheeled container, collected with automated or semi-automated trucks. "Modified" denotes the separate drop box collection of container glass and its exclusion as a recyclable material designated for curbside collection service.

M. Solid waste collection company means a G-certificate privately owned solid waste and recyclables hauling company or "hauler," which provides collection services in rural and urban designated areas of Island County and is regulated by the Washington Utilities and Transportation Commission (WUTC) under the provisions of Chapter 81.77 RCW and is licensed to haul and dispose of garbage/solid waste within Island County. The companies may be collectively referred to as "certificated haulers" and means every person or his lessees, receivers, or trustees, owning, controlling, operating or managing vehicles used in the business of transporting solid waste for collection and/or disposal for compensation over any public highway whether as a "common carrier" or as a "contract carrier."

N. Source separation means the separation of different kinds of solid waste at the place where the waste originates.

O. Washington Utilities and Transportation Commission or WUTC means the state agency that regulates privately owned solid waste collection companies that provide collection service to the unincorporated areas of the County under a G certificate.

P. Yard waste or yard debris means plant material commonly generated in the course of maintaining yards and gardens and through horticulture, gardening, landscaping or similar activities. Yard waste includes, but is not limited to, grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris. Yard waste may include noxious weeds such as blackberry, thistle, and knotweed when allowed by a receiving compost facility.

13.04.040 Minimum Levels of Curbside Recyclables Service for Single-Family Residences

The minimum levels of service for single-family residential curbside collection shall include the following:
A. Single-Stream Collection.

1. The solid waste collection company shall provide every-other-week, single-stream collection of recyclables to all single-family residences that subscribe to solid waste collection service.

2. The solid waste collection company shall also provide every-other-week, single-stream collection of recyclables to single-family residences that do not subscribe to solid waste collection service but who request curbside recycling service from the solid waste collection company at rates approved by the Washington Utilities and Transportation Commission.

3. Curbside recyclables collection shall be on the same day of the week as garbage collection, unless the solid waste collection company can demonstrate to the County that an alternative collection schedule is necessary because of geographic or development limitations, such as road width or density, that require an alternative truck system or collection schedule.

   a) The solid waste collection company shall identify the location of the area affected; the alternative collection schedule; and the reasons supporting the alternative.

   b) The County shall consider whether the number of customers affected is minimized; that program participation is not adversely affected; whether there is substantial cost savings due to the alternative schedule; whether an alternative collection schedule can result in higher levels of participation and recycling; and other information presented by the solid waste collection company.

B. Recycling Collection Containers.

1. Unless otherwise requested by the customer, the solid waste collection company shall provide a wheeled container of approximately ninety-six gallons to each of their single-family customers. The containers shall be made of durable plastic materials that meet specifications for automated handling.
2. The solid waste collection company shall provide a process to request and receive an alternative sixty-five gallon or smaller wheeled container to customers for whom the standard 96 gallon cart is unwieldy to move or store, or has excessive capacity for their needs. A customer shall be able to make one request without charge or change in monthly service fees for the selection or use of alternate cart sizes.

3. All containers shall have attached information about the proper preparation of materials and the name and phone number(s) of the certified hauler. The information may be stamped into the container, on a waterproof sticker, or a combination of both. If stickers are chosen, the solid waste collection company shall provide replacements to all customers in Island County when normal aging and weather exposure has made them unreadable.

4. Replacement of the containers necessitated by normal use or by container damage due to the solid waste collection company's negligence shall be the responsibility of the solid waste collection company. Replacement necessitated by container damage or loss due to the customer's negligence shall be at the customer's expense, the solid waste collection company, however, being responsible for arranging the replacement.

C. Exceptions: Collection Alternatives for Residents with Limited Mobility, or with Restricted Access or Storage.

1. Criteria: The solid waste collection company shall have a process in place to work cooperatively with residents to tailor the single-stream recycling collection service to meet the needs of residents in situations where:

   a) Residents have special needs, such as physical infirmity or physical limitations, have no able-bodied person living in the residence to set out the container, and need reasonable accommodation;

   b) Private driveways are inaccessible or incapable of withstanding the weight of collection trucks and collection of recyclables or garbage cannot be provided under the approved drive-in rate tariff for such situations;
c) A long, steep and/or winding driveway means that a resident would have difficulty in moving a large recycling container, manually or by vehicle, from their house to the public access road for collection;

d) A resident could not provide a storage place to keep recycling or garbage containers at the end of the driveway close to the public access road; or

e) Truck access or container size is in any way otherwise restricted due to density and road width or where outside container storage is limited by homeowner association covenants.

2. Alternatives: The solid waste collection company shall offer alternatives that suit its collection system or the particular customer's limitation. The alternatives may include:

a) A drive-in tariff rate for those situations where a recycling truck can negotiate the long driveway and where the driveway can support the weight of the truck, provided the customer signs a damage waiver with the collection company. A walk-in tariff rate for situations that involve driveways that are not navigable by collection trucks, provided the walk-in service is not impractical due to distance or unsafe conditions;

b) Providing the customer with a thirty-five or sixty-five gallon automated collection container with no additional cost above the basic recycling tariff rate;

c) Any other solution mutually agreed to by the customer and the solid waste collection company in accordance with WAC 480-70-366.

3. Monitoring: The solid waste collection company shall:

a) Have a written process explaining in detail how customers may request an alternative and the steps the solid waste collection company will take to work with the customer to develop a solution.
This process must also be available online with a working email contact method; and

b) Maintain an updated list of customers who have requested an alternative collection system, a description of the problem and of the chosen solution, or how the problem was otherwise resolved, and provide the list and descriptions annually to Island County.

4. Nothing in this section would prevent or require the solid waste collection company from developing a centralized drop-off site in neighborhoods, to be maintained by the solid waste collection company where such access problems are clustered or where covenants prevent outside storage of containers.

D. Designated Materials Collected.

The following recyclable materials, at a minimum, shall be collected from single-family residences when properly prepared and meeting the material description as specified:

1. Cardboard – corrugated cardboard and Kraft paper, including unbleached, unwaxed paper with a ruffled ("corrugated") inner liner;

2. Metal food cans – clean tin-coated steel cans and aluminum cans, excluding all aerosol and paint cans;

3. Mixed waste paper – clean and dry paper, including: glossy papers; magazines; catalogs; phone books; cards; white or colored ledger paper; windowed envelopes; paper with adhesive labels; paper bags; nonmetallic wrapping paper; packing paper; glossy advertising paper; and chipboard, such as cereal and shoeboxes;

4. Newspaper – printed groundwood newsprint, including glossy advertisements and supplemental magazines that are delivered with the newspaper; and
5. Plastics – rinsed bottles, jars, tubs, buckets and plant pots. Examples include soft drink, water, and salad dressing, milk, shampoo, or laundry detergent bottles, and yogurt and cottage cheese tubs. Excludes lids, crinkly or lightweight plastic, and containers that held hazardous materials such as pesticides.

6. Recyclables do not include medical or infectious waste as defined by applicable state or local law. Recyclables do not include containers used for paint, chemicals or motor oil.

D. **Separate Container Glass Handling.**

If the solid waste collection company does not commingle glass with other recyclables materials, then the company shall place up to three (3) glass collection drop box containers for public use in convenient locations. The collection company will coordinate with the County regarding preferred locations. This responsibility of the solid waste collection company includes negotiation with commercial property owners for box placement, provision and servicing of boxes, ownership and marketing of collected container glass, and site maintenance.

The County will continue to be responsible for container glass that is delivered by the general public at its drop box recycle parks.

E. **Yard Debris Collection [RESERVED]**

F. **Optional Materials.**

Nothing in this chapter shall prohibit the solid waste collection company from exceeding the minimum requirements by collecting additional materials including, but not limited to, scrap metal, other types of plastic, or other materials in the future.

G. **Amending the list of required materials.**
Prior to proposing any amendments to the list of materials to be collected, the County will discuss any proposed changes with the solid waste collection company.

H. Recycling Collection Rates.

The solid waste collection company shall request that the WUTC approve a rate structure, which includes the costs to implement the modified single-stream residential curbside recycling program for all solid waste customers described in ICC 13.04.040(A)(1) and (2) of these minimum levels of service. The solid waste collection company shall also include the following elements in the tariffs submitted to the WUTC:

1. A rate structure designed to provide customers with adequate options and incentives to reduce their level of solid waste collection service as a result of their participation in waste reduction and recycling programs;

2. Rates that include the costs of the curbside collection containers, separate container glass collection whether at curbside or at non-County owned drop box locations, instructional stickers, collection equipment, and staffing;

3. Collection rates that include a separate delivery service fee for replacement carts. This service fee for replacement carts shall not apply to the first-time delivery of the standard-sized container, or for the first-time delivery of a smaller container when requested by the customer;

4. Rates that include the solid waste collection company’s costs for the public outreach program, monitoring of set-out participation, and any other costs for the data reporting system required by the County;

5. Rates that capitalize and amortize the equipment costs as determined by the WUTC.

13.04.050 Customer Service Responsibility and Coordinated Public Outreach Programs
The solid waste collection company shall work with the County to develop and implement a coordinated public outreach program.

A. Customer Service Responsibilities

The customer service responsibilities of the solid waste collection company shall include, but not be limited to:

1. Notifications to residential customers of the curbside recycling service, container delivery, cart instructional stickers, listing of residential services and tariffs that highlight savings achievable by downsizing garbage service, instructions to downsize garbage service level, schedule of collection days and container replacement information;

2. Delivery of recycling containers within ten days of a request for service by customers followed by collection service beginning within two weeks of a request for service;

3. A telephone hotline for the certificated area, which shall be:

   a) Accessible to residents for the purpose of providing program information and accepting service complaints;

   b) Capable of responding to a large volume of phone calls; and

   c) Clearly displayed on automated collection carts, in all mailings, and on other publicity materials.

4. A process to resolve participation problems if access to the program is restricted due to impassable road conditions other than those occasionally caused by severe weather situations. If the solid waste collection company deems the road conditions are regularly impassable by collection vehicles, the solid waste collection company will work with customers to determine a mutually agreed upon location for the collection of recyclables,
preferably from the nearest roadway which is accessible by the solid waste collection company’s collection vehicle;

5. Notification to both new and ongoing solid waste customers of: different trash collection service options including cart sizes, frequency, and costs; recycling container provided to all solid waste customers; and bulky item collection availability. The solid waste collection company shall notify solid waste customers of the above during phone calls, in billing inserts and special mailings, on their website and during new service sign up procedures. Hauler will ensure that website is updated and links to County-specific information are working. The website shall also provide a link to Island County Public Works to provide residents with additional waste disposal and reduction information;

6. A newspaper advertising campaign;

7. Production of a brochure on the new program to be mailed to customers via solid waste collection company billings, to be distributed with new carts, and that can be made available to self-hauler of garbage or recyclables at County facilities; and

8. An Internet website describing the solid waste collection company’s services, how to sign-up for the new program, how to resolve a service complaint, and that includes links to the County website that lists information about drop-off alternatives and other County programs.

B. Coordination with County

At the initiation of any new collection program, the solid waste collection company shall allow sufficient time for coordination of promotional and educational efforts with the County, and the solid waste collection company shall provide the County with container delivery schedules and collection schedules showing where implementation (which may be staged) will begin by geographic areas.

C. Public Outreach
The County will also coordinate with the solid waste collection company to develop a joint countywide public outreach program. The outreach program shall include:

1. Inclusion of program information in County solid waste brochures and website;

2. News releases;

3. An internet website with information about self-haul alternatives for recyclable materials, garbage, household hazardous wastes and other wastes that require special handling, and a links to the solid waste collection company’s website for information about curbside solid waste and recycling collection services;

4. An e-mail address to allow residents the opportunity to request brochures or other materials and to ask for additional information or help;

5. Mobile table-top display;

6. Incorporation of information about programs into youth and adult environmental education programs;

7. Presentations to civic groups; and

8. Staffing sufficient to provide information to customers with inquiries.

13.04.060 Reporting Requirements for Residential Recyclables Collection Programs

The solid waste collection company shall provide the County with regular and accurate reports of data on all residential recycling collection services as determined necessary by the County for evaluating the effectiveness of the collection program.
A. The solid waste collection company shall provide quarterly reports to the County at the end of the month following the end of each quarter. These reports shall contain at least the following data, broken down by each month:

1. The number of single-family solid waste collection customers subscribing to each level of garbage collection service;

2. Aggregate tonnage of each recyclable material collected from single-family customers;

3. Average of recyclables collected per single-family customer expressed as pounds recyclables per customer;

4. Aggregate tonnage of solid waste disposed from single-family customers;

5. Residential recycling rate;

6. Log of unresolved customer complaints with summary of measures taken to resolve any problems;

7. Any percentage residue amounts or contamination problems reported by processing facilities; and

8. Summaries of tons and value of single stream materials sold.

B. Annual reports shall include an analysis of the effects of changes in services and areas served or problems that were encountered and any suggested changes to increase efficiency and participation in the curbside program.

13.04.070 Processing Preferences and Disposal Limitations

A. The solid waste collection company shall use processing facilities that have obtained all applicable local, state, and federal permits.
B. The solid waste collection company shall not under any circumstances dispose of marketable recyclables in a landfill or by incineration.


13.04.080 County Notification of WUTC Tariff Filings

Whenever the solid waste collection company files a proposed tariff revision for solid waste and recyclables collection rates with the WUTC, the solid waste collection company shall simultaneously provide the County with copies of the proposed tariff submitted to the WUTC and all supporting materials. Any propriety information provided to the County shall be marked “confidential,” and the County shall treat that information as confidential to the extent allowed by law.

A. The County shall review the rates for compliance in relation to the Island County Solid Waste Management Plan, and minimum service level ordinances.

B. After tariffs are approved by the WUTC, the collection company shall notify the County of the approved rates and the effective dates.

13.04.090 Commodity Credit

Single-family residents that subscribe to single-family curbside recycling collection service shall be eligible for the commodity revenue credit or charges provided in WUTC tariffs.

13.04.100 Full Program Implementation

If it is determined that the programs specified in this chapter are not fully implemented, the Board of Island County Commissioners, or the utilities and waste management director, shall notify the WUTC that the County will exercise its authority under RCW 36.58.040 to contract for the collection of recyclables from residences in Island County.
A. **Full Implementation.**

The solid waste collection company will have one calendar year from the effective date of this chapter to fully implement this curbside recycling collection program. The program shall be considered fully implemented when the following conditions are met:

1. The solid waste collection company has received approval by the WUTC for its tariff filings for recyclables;

2. The services are available to all who want the service; and

3. The solid waste collection company has established a public outreach program in accordance with ICC 13.04.050(C).

B. **Potential County Contract for Collection.**

In the event that the County determines that the collection company failed to comply with the material requirements or policies of this Ordinance, the County shall provide the collection company with a written notice specifying the noncompliance and affording the company 30 days after receipt of such written notice to correct the noncompliance; provided, however, that if the company cannot reasonably cure such noncompliance within such thirty-day period, the company shall not be in default if it commences cure within said thirty days and diligently pursues the same to completion. Noncompliance beyond this period may result in the County exercising its authority to contract for the collection of residential recyclables, unless the noncompliance is outside the reasonable control of the collection company.

**Force Majeure.** Notwithstanding anything to the contrary contained herein, neither the County nor the collection company will be liable to the other or be deemed out of Ordinance compliance for any delay in, or failure of, performance of any of its obligations hereunder where performance of such obligations is prevented or delayed by acts of God (except normal weather conditions for the collection area), fire, explosion, accident, flood, epidemic, war, riot, rebellion, act of terrorism, interruption or rationing of fuel supply, or any other act or event that has had or may reasonably be expected to have a material adverse effect on the rights and obligations of a party to this Ordinance, if such act or event is beyond the reasonable control of the party relying thereon as justification for not
performing an obligation or complying with a condition required of that party under this Ordinance.

The party asserting a right to suspend performance under Force Majeure must, within a reasonable time after he has knowledge of the effective cause, notify the other party of the cause for suspension, the performance suspended, and the anticipated duration of suspension.