

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

ORDINANCE 872

An Ordinance amending Washington County Code Chapter 8.08 Solid Waste Disposal Sites, relating to the Solid Waste and Recycling Advisory Committee.

The Board of County Commissioners of Washington County, Oregon, ordains as follows:

SECTION 1

A. The Board of County Commissioners (Board) finds that Chapter 8.08 of the Washington County Code, relating to solid waste disposal sites, is in need of an update to remove, and to replace outdated and unnecessary language as it pertains to the Solid Waste Advisory Committee (Committee).

B. The Board further finds that there is a need to align the Committee and its purpose and duties in order to facilitate equitable representation on the Committee.

C. The Board finds that the Solid Waste Advisory Committee reviewed, however did not make a recommendation on the changes to Chapter 8.08 as set forth in Exhibit A.

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1 SECTION 2

2 The Board finds and takes public notice that it is in receipt of all information
3 necessary to consider this Ordinance in an adequate manner, and that this Ordinance
4 complies with the requirements set forth in the Washington County Charter and the
5 Washington County Code.

6 SECTION 3

7 The attached Exhibit A (twenty-seven pages) is hereby adopted and incorporated
8 herein as amendments to Chapter 8.08 of the Washington County Code. New material is
9 underlined; deleted material is strikethrough.

10 SECTION 4

11 A. Nothing herein is intended, nor shall it be construed, as amending,
12 replacing or otherwise being in conflict with any other ordinances of Washington County
13 unless expressly so stated.

14 B. If any section, clause, phrase, or word of this Ordinance, including the
15 exhibit, shall for any reason be held invalid, unconstitutional, or unenforceable by a body
16 of competent jurisdiction, the remainder of this Ordinance or its application and all
17 portions not so stricken shall not be affected thereby and shall remain in full force and
18 effect.

19 SECTION 5

20 The Office of County Counsel is authorized to codify this Ordinance and to make
21 any technical changes, not affecting its substance, as are reasonably necessary to
22 accomplish codification.

1 SECTION 6

2 This Ordinance shall take effect thirty (30) days after adoption.

3 ENACTED this ____ day of _____, 2021, being the ____ reading
4 and _____ public hearing before the Board of County Commissioners of Washington
5 County, Oregon.

6 BOARD OF COUNTY COMMISSIONERS
7 FOR WASHINGTON COUNTY, OREGON

8 _____
9 CHAIR

10 _____
11 RECORDING SECRETARY

12 READING

13 PUBLIC HEARING

12 First _____
13 Second _____
14 Third _____
15 Fourth _____
16 Fifth _____
17 Sixth _____

12 First _____
13 Second _____
14 Third _____
15 Fourth _____
16 Fifth _____
17 Sixth _____

18 VOTE: Aye: _____

18 Nay: _____

19 Recording Secretary: _____ Date: _____

Chapter 8.08 - SOLID WASTE DISPOSAL SITES

8.08.010 - Short title.

This chapter shall be known as the "solid waste disposal site ordinance" and may be so pleaded and shall be cited herein as "this chapter."

(Ord. 83 § 1, 1971)

8.08.020 - Purpose.

The purpose of this chapter shall be to protect the health, safety and welfare of the people of the county and acting pursuant to the Charter of the county and ORS 459.210 through 459.240 to provide for a coordinated program relating to the collection and disposal of wastes and solid wastes in connection with the solid waste control ordinance of the county, Ordinance No. 59, enacted July 22, 1969, and as amended. Accordingly, it is declared to be the public policy of the county to regulate the collection and disposal of wastes and solid wastes and to adopt a program regarding the creation and operation of wastes and solid waste disposal sites to:

- A. Provide for safe and sanitary accumulation, collection, transportation, storage and disposal of wastes and solid wastes;
- B. Prevent illegal dumping and provide for abatement of accumulated wastes or solid wastes dumped on private property in such a manner as to create a public nuisance, a hazard to the health or safety of the public, offensive odors, a fire hazard, or a condition of unsightliness. Such program is connected with the nuisance control ordinance of the county, Ordinance No. 60, enacted October 28, 1969, and as amended;
- C. Develop a regional long-range plan to provide adequate disposal sites and disposal facilities to meet future demands;
- D. Provide a coordinated county-wide program of control of wastes and solid wastes in cooperation with federal, state and local agencies responsible for the prevention, control or abatement of air, water and ground pollution;
- E. Provide for, and encourage, research, studies, surveys and demonstration projects to develop more sanitary, efficient and economical waste and solid waste disposal systems and programs;
- F. Provide for a coordinated waste and solid waste disposal program with cities within the county and with other counties or cities, or other public agencies, should regional programs be developed;
- G. Provide for cooperation and agreements between the county and other public agencies involving joint or regional franchising of waste or solid waste disposal sites;
- H. Provide minimum standards for location and operation of disposal sites to protect adjacent or nearby residents;
- I. Utilize the expertise and capabilities of private industry.

(Ord. 83 § 2, 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.030 - Definitions.

For the purpose of this chapter, words in the present tense include the future, the singular number includes the plural, the word "shall" is mandatory and not directory, and the term "this chapter" shall be

deemed to include all amendments hereinafter made to this chapter. As used in this chapter, unless the context requires otherwise, the following words and their derivations shall be utilized:

1. "Board" means the Washington County board of county commissioners.
2. "Collection vehicle" means any vehicle used to collect or transport waste or solid waste.
3. "Combustible waste" means all wastes or solid wastes capable of incineration or burning.
4. "Committee" means the ~~solid waste~~garbage and recycling advisory committee established pursuant to Ordinance No. 59 of the county, adopted July 22, 1969, and as amended.
5. "Compensation" means any type of consideration paid for service including, but not limited to, direct or indirect consideration from tenants, licensees or similar persons.
6. "Construction or demolition wastes" means solid waste resulting from the construction, repair, or demolition of buildings, roads and other structures, and debris from the clearing of land, but does not include clean fill when separated from other construction and demolition wastes and used as fill materials or otherwise land disposed. Such waste typically consists of materials including concrete, bricks, bituminous concrete, asphalt paving, untreated or chemically treated wood, glass, masonry, roofing, siding and plaster; and soils, rock, stumps, boulders, brush and other similar material. This term does not include industrial solid waste and municipal solid waste generated in residential or commercial activities associated with construction and demolitions activities.
7. "County" means the County of Washington, a political subdivision of the State of Oregon.
8. "Dispose" or "disposal" includes accumulation, storage, collection, transportation and disposal of wastes or solid wastes.
9. "Disposal site" means land and facilities used for the disposal, handling, treatment or transfer of, or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, land application units (except as exempted by Section 8.08.030.25.2), transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site, except for those items delineated within ORS 459.005(8)(b)(A through D).
10. "Energy recovery" means recovery in which all or a part of the solid waste materials are processed to use the heat content, or other forms of energy, of or from the material.
11. "Franchise" means a franchise to operate a waste or solid waste disposal site issued by the board pursuant to this chapter.
12. "Hazardous waste or solid waste" does not include radioactive material or the radioactively contaminated containers and receptacles used in the transportation, storage, use or application of radioactive waste, unless the material, container or receptacle is classified as hazardous waste under paragraph (a), (b) or (c) of this subsection on some basis other than the radioactivity of the material, container or receptacle. Hazardous waste does include all of the following which are not declassified by the commission under ORS 466.015 (3):
 - (a) Discarded, useless or unwanted materials or residues resulting from any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling or mitigating of insects, fungi, weeds, rodents or predatory animals, including but not limited to defoliants, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides.
 - (b) Residues resulting from any process of industry, manufacturing, trade or business or government or from the development or recovery of any natural resources, if such residues are classified as hazardous by order of the commission, after notice and public hearing. For purposes of classification, the commission must find that the residue, because of its quantity, concentration, or physical, chemical or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- (c) Discarded, useless or unwanted containers and receptacles used in the transportation, storage, use or application of the substances described in paragraphs (a) and (b) of this subsection.
13. "Incinerator" means any device used for the reduction of combustible solid wastes by burning under conditions of controlled airflow and temperature.
 14. "Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.
 15. "Material recovery" means any process of obtaining from solid waste, by pre-segregation or otherwise, materials that still have useful physical or chemical properties and can be reused or recycled for some purpose.
 16. "Person" means any individual, public or private corporation, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever.
 17. "Public street" means any state highway, county road, public way or highway, public road as defined in ORS 368.005 and any public thoroughfare or easement.
 18. "Putrescible materials" means solid waste containing organic material that can be rapidly decomposed by microorganisms, and which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.
 19. "Recycling" means any process by which solid waste materials are transformed into new products in a manner that the original products may lose their identity.
 20. "Regulations" means regulations adopted pursuant to this chapter and promulgated by the board by resolution and order.
 21. "Rules" means rules promulgated by state agencies pursuant to Oregon Revised Statutes, as amended.
 22. "Sanitary landfill" means a disposal site operated by means of compacting and covering wastes or solid wastes, at least once each operating day.
 23. "Service" means operation of a disposal site for compensation by a private person.
 24. "Service area" means the geographical area in which the operation of a solid waste disposal site pursuant to this chapter can be economically, safely and effectively provided by any person.
 25. "Solid waste" means all useless or discarded putrescible and nonputrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge; useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances; manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined in ORS 459.386; but does not include:
 1. Hazardous waste as defined in ORS 466.005;
 2. Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates.
 26. "Transfer station" means a fixed or mobile facility other than a collection vehicle where solid waste is deposited temporarily after being removed from the site of generation but before being transported to a final disposal location.

27. "Wastes" means material that is no longer useable or wanted by the source of the material, which material is to be utilized or disposed by another person. For the purpose of this subsection, "utilized" means the productive use of wastes through recycling, reuse, salvage, resource recovery, energy recovery or landfilling for reclamation, habilitation or rehabilitation of land.

(Ord. 706 § 3 (Exhibit A), 2008; Res. 71-33 § 2, 1971; Ord. 83 § 3, 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.040 - Exceptions.

Except as specifically provided for herein, this chapter shall not apply:

- A. Within the incorporated limits of any city, unless agreed to pursuant to ORS 190.003 through 190.250 between such city and county;
- B. To federal or state agencies that collect, store, transport or dispose of wastes or solid wastes or those who contract with such agencies to perform service, as to rates to be charged for such service; provided, however, that this exception shall not apply to disposal on a disposal site operated pursuant to a franchise granted pursuant to this chapter, except as to rates to be charged for the service of such disposal.
- C. To sludge lagoons, sludge treatment facilities, or disposal sites for septic tank pumping or cesspool cleaning service permitted by a federal, state or local agency;
- D. To land and facilities used for material recovery and recycling from non-putrescible solid wastes only.
- E. To land and facilities used for the temporary transfer, storage or processing of wastes and/or solid wastes resulting from a disaster event established and operated by federal, state or local agencies or through a contract with such agencies during a state of emergency declared pursuant to Washington County Code Chapter 8.36.

(Ord. 83 § 5, 1971)

(Ord. No. 728, § 3, 10-20-2009; Ord. No. 819, § 3(Exh. A), 12-6-2016)

8.08.050 - Administration.

- A. The health and human services department, subject to the authority of the board, shall be responsible for the administration and enforcement of this chapter.
- B. In order to carry out the duties imposed by this chapter, the health officer or their designee shall have the authority to certify to all official acts, require the attendance of witnesses at public hearings before the committee or the board; produce relevant documents at public hearings; and enter, or authorize personnel to enter, upon the premises of any person regulated by this chapter to review records and/or determine compliance with this chapter and the regulations promulgated by the board pursuant thereto.

(Ord. 83 § 4, 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.060 - Accumulation prohibitions.

Except as otherwise provided in this chapter, it shall be unlawful for any person to store, deposit, collect, maintain or display, or to cause or to allow any person to store, deposit, maintain or display, on private property, wastes or solid wastes, that are hazardous to the health or safety of the public or which create offensive odors, create a condition of unsightliness, create a public nuisance, or are a fire hazard unless first obtaining a franchise issued by the board. Storage, collection, maintenance or display of wastes or solid wastes in violation of this section shall be considered a public nuisance which may be abated pursuant to law and subject any person convicted of a violation thereof to the penalties provided by this chapter and other ordinances.

(Ord. 83 § 6(A), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.070 - Accumulation prohibitions—Exemptions.

Section 8.08.060 shall not apply to:

- A. Areas within the limits of incorporated cities, unless an agreement is duly entered into and executed between the county and the city, pursuant to ORS 190.003 through 190.250;
- B. Disposal sites franchised pursuant to the provisions of this chapter, provided that such disposal sites comply with this chapter, rules and regulations;
- C. Agricultural operations and growing or harvesting of crops and the raising of fowl or animals, provided that:
 - 1. The accumulation of waste or solid waste is a necessary agricultural operation and is used at or below agronomic application rates,
 - 2. The accumulation of waste or solid waste is conducted in such a manner as to create no fire, health or safety hazard to the public, and
 - 3. The accumulation of waste or solid waste is performed in conformance with the regulations enacted pursuant to this chapter.

(Ord. 83 § 6(B), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.080 - Authority.

Except as provided in Section 8.08.090, it shall be unlawful for any person to dispose of wastes or solid wastes or to maintain a disposal site in any place other than a disposal site approved by the board pursuant to this chapter, or to operate a disposal site in a manner inconsistent with this chapter. The board shall designate in writing, the places where solid waste collected within the county shall be disposed in accordance with the provisions of this chapter. The board may provide, by regulation, for the disposal of wastes or solid wastes originating outside the unincorporated areas of the county or outside the county and may regulate, limit or prohibit at any time, disposal service for such waste or solid waste in the area within the jurisdiction of the county.

(Ord. 83 § 7(A), 1971)

8.08.090 - Approval required.

No person shall use or permit to be used, any land within the county outside incorporated cities as a public or private disposal site without prior approval of the board pursuant to this chapter and, if so approved, shall operate such disposal site in a manner consistent with this chapter and rules and regulations. Persons desiring to bury or dispose in any manner of his own wastes or solid wastes, including but not limited to, agricultural wastes and composting operations, on his own property, may do so, provided that such disposal is performed in compliance with the rules and regulations and other state laws and ordinances of the county. No person shall use any public street, road, alley or other public thoroughfare for the transportation of wastes or solid wastes within the unincorporated areas of the county except in a manner consistent with this chapter, rules and regulations.

(Ord. 83 § 7(B), 1971)

8.08.100 - Effect on solid waste collection certificate.

Sections 8.08.080, 8.08.090, 8.08.110 and 8.08.120 shall not be construed to deny or hinder the grant of a service certificate for the collection and transportation of wastes or solid wastes issued pursuant to Chapter 8.04 or any person specifically exempted from Chapter 8.04, provided that no service certificate holder or exempt person shall dispose of wastes or solid wastes at any disposal site within the county which is not authorized pursuant to this chapter.

(Ord. 83 § 7(C), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.110 - Reserved.

Editor's note— Ord. No. 728, § 3, adopted Oct. 20, 2009, deleted § 8.08.110. Former § 8.08.110 pertained to continuance of existing sites and derived from Ord. 83, § 7(D), adopted 1971.

8.08.120 - Construction or demolition wastes.

Construction or demolition wastes may be disposed of at sites approved by the health and human services department and for which the health and human services department has issued a franchise. Said franchise shall not be issued except in compliance with any regulation promulgated by this board and a finding by the health and human services department that such a franchise does not materially injure public health, safety or welfare. Said franchise fees shall be the same as provided in Sections 8.08.500 through 8.08.540 of this chapter. (Res. 71-33 § 3, 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.12530 — Garbage and Recycling Advisory eCommittee—Duties.

There is created a garbage and recycling advisory committee as outlined in Washington County Code Chapter 8.04.060.

8.08.130 Purpose

The purpose of the advisory committee is to provide the board with recommendations on solid waste related decisions from community members and businesses that are consumers or participants in the

County's garbage and recycling system. Committee membership will ensure diverse representation of lived and learned experiences that will help produce equitable outcomes from decisions that impact all users of the garbage and recycling system.

8.08.135 Garbage and Recycling Advisory Committee – Duties

- A. Review and advise on proposed changes to the rules and regulations that affect the safe and sanitary accumulation, collection, transportation, storage and disposal of wastes and solid wastes; Make periodic reports containing its recommendations, if any, regarding proposed changes or additions to the regulations promulgated by the board or amendments to this chapter as set forth in Section 8.08.020;
- B. Review and advise make recommendations related to, in consultation with county officers and departments, including but not limited to, the health and human services department, the county administrative office, the land use and transportation department, and such state, local or federal offices, agencies and departments as the board and the committee deem necessary, on appropriate long-range plans associated related to with the provision of adequate disposal sites and disposal facilities to meet future demands; including but not limited to the regional solid waste management plan, which plans shall subsequently be recommended to the board for approval;
- C. Review and advise recommend, in consultation with necessary state, federal and local officials of this and other counties, cities or public agencies and private persons, on minimum standards for the location and operation of disposal sites including, but not limited to, the protection of adjacent or nearby residents;
- D. Assess and report on the impact of disposal site decisions that affect all users of the garbage and recycling system including community members, businesses, and other affected groups; and
- ED. Perform such other and further acts as may be necessary, proper or desirable to carry out effectively the functions of the advisory committee as prescribed in the advisory committee bylaws or by this chapter. Perform such other acts or duties as directed by the board or established by other ordinances or as may be necessary, proper or desirable to carry out effectively, the functions and duties of the committee and the intent of this chapter.

(Ord. 83 § 8, 1971) (Ord. No. 728, § 3, 10-20-2009)

8.08.140 - Regional advisory committee—Appointment.

If agreement is reached with one or more counties, cities or other public agencies, for regional franchising of solid waste disposal sites, the board may make appointments to serve on a regional solid waste advisory committee, as may be established by such agreement or otherwise, to advise the governing bodies of each political entity as to regional plans of solid waste collection, storage and disposal.

(Ord. 83 § 9, 1971)

(Ord. 83 § 8, 1971) (Ord. No. 728, § 3, 10-20-2009)

8.08.150 - Agreement for joint or regional franchising.

The board may enter into agreements with any city, county or other public agency for joint or regional franchising of disposal sites and provide by regulation, for matters pertaining to the modification and termination of franchises.

(Ord. 83 § 10, 1971)

8.08.160 - Regulation promulgation—Authority.

- A. Upon the recommendation of the committee, or upon its own motion, the board may promulgate reasonable regulations pertaining to such requirements as may be necessary from time to time, to protect public health, safety and welfare and as regards the administration of this chapter. Such regulations shall include, but not be limited to:
1. As provided in ORS 433.730, and as subsequently may be amended or revised, where necessary to meet special local conditions, in addition to the requirements of ORS 459.040, and rules promulgated thereunder, the board may promulgate reasonable regulations concerning storage, accumulation and disposal of wastes and solid wastes, including, but not limited to, the following:
 - a. Accumulation, storage, collection and disposal of wastes and solid wastes to prevent:
 - i. Vector production and sustenance,
 - ii. Conditions for transmission of disease to man or animals,
 - iii. Air pollution by dust, fumes, gas, smoke, odors or particulate matter or any combination thereof,
 - iv. Pollution of surface or underground waters,
 - v. Hazards to service or disposal workers or to the public;
 - b. Disposal sites with respect to adaptability of the site to the population served, topography and geology of the area, protection of ground and surface water, air pollution, accessibility, longevity, salvage, ultimate site use, standards of design, management and operation, regulation and limitation of salvage operations and protection of adjacent or nearby residents;
 - c. Safe handling of wastes and solid wastes.
 2. As provided in ORS 459.210 through 459.240, and as subsequently may be amended, as to regulation of waste and solid waste collection and disposal;
 3. Authorization of use of a disposal site, including the enumeration of persons authorized to use the disposal site, the times, places and manner of such use, restrictions as to quantity or quality of wastes or solid wastes accepted at the disposal site, enumeration and disposition of hazardous wastes or solid wastes, and other matters reasonably required to protect the public health, safety and welfare;
 4. Such other regulations deemed necessary by the board to carry out the purpose of this chapter and to protect public health, safety and welfare;
- B. The regulations adopted by the board pursuant to this chapter shall become a part of the terms of the franchise upon adoption of such regulations by resolution and order of the board.

(Ord. 83 § 11, 1971)

8.08.170 - Reserved.

Editor's note— Ord. No. 728, § 3, adopted Oct. 20, 2009, deleted § 8.08.170. Former § 8.08.170 pertained to salvage, removal or recycling operations and derived from Ord. 83, § 13, adopted 1971.

8.08.180 - Application—Filing—Fee.

Applications for franchises shall be made under oath on forms provided by the board. In addition to any information required on said forms, the board may require the filing of any additional information deemed necessary to ensure compliance with this chapter and rules and regulations. A nonrefundable fee of one hundred dollars shall accompany the application. The board may reject or return any application upon a finding that the information contained therein is insufficient or incomplete.

(Ord. 83 § 13(part), 1971)

8.08.190 - Application—Duplicate information for Department of Environmental Quality.

Applicants for disposal franchises shall file in duplicate the information required by the Department of Environmental Quality pursuant to ORS Chapter 459. (Res. 71-39 § 1, 1971; Ord. 83 § 13(A), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.200 - Application—Information required.

The application shall include the following information:

1. A map showing the exact boundaries of the proposed disposal site and the plat of land on which the disposal site is proposed;
2. Surface and subsurface soil conditions, relating to the type of soil and nature and accessibility of cover materials if to be utilized;
3. Sequence and plan of operations;
4. Source and plan of water supply;
5. Equipment used or proposed to be used including brand name, manufacturer's specifications, model type and capacity;
6. Types of wastes proposed to be accepted and excluded from the disposal site;
7. Nuisance and vermin control plans;
8. Existing and proposed roadways and easements and methods to prevent traffic congestion, hazards or nuisances;
9. Existing topography and watercourses, together with a diagram and written statement explaining proposed location and extent of earthwork and fill operations;
10. Profiles indicating final depth and contours of the fill;
11. Estimated daily or weekly charges for disposal of wastes or solid wastes accepted in the first year of the franchise;
12. Successive layers of anticipated fill and earth required to arrive at final grade and diagram of the cross of cell construction, if proposed to be used;
13. Drainage plan for site upon completion of use as a disposal site;
14. Number of yards of cover material to be maintained on landfill site for one-week supply;
15. Name of engineering firm which planned the disposal site, if any;
16. Fencing and screening plans;

17. Rates charged at all prior disposal sites with which the persons, officers, partners or board members have previously operated. If the applicant already maintains a disposal site within the county, his present rate scale. All applicants shall submit the proposed rates and expected cost of operation for the first year of conducting the disposal site;
18. Estimated annual gross receipts for the first year of operation;
19. Methods of disposal of hazardous wastes or solid wastes;
20. Methods to control fires and to prevent fire hazards;
21. Methods to control authorized salvage, if any, and unauthorized entry or dumping at the disposal site;
22. Methods to control surface water and groundwater pollution;
23. Intended use of the property after completion of the operation;
24. Days of week and times open to the public or refuse haulers for operation;
25. Proposed plan of land reclamation and phases to reach such plan;
26. Estimated longevity of site;
27. Zoning of proposed disposal site at the time of application;
28. Such other information as may be required by regulations of the board.

(Ord. 83 § 13(B), 1971)

8.08.210 - Application—Engineering plan.

Applicants for disposal franchises shall provide, in addition to the information required herein, sufficient information, which may include, at the option of the board for any proposed new disposal site, an engineering plan or partial engineering plan, to determine the applicant's compliance with the requirements of this chapter, the regulations promulgated thereunder, and the rules of federal, state or local agencies having jurisdiction, including but not limited to, the Department of Environmental Quality, the State Department of Human Services, the Solid Waste Section of the Department of Human Services, the Oregon Department of Transportation, the Washington County Planning Commission and the Department of Land Use and Transportation, the Department of Health and Human Services, and the board.

(Ord. 83 § 13(C), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.220 - Application—Specification.

Applicants shall specify the type of disposal site and disposal method or processes to be employed together with any proposed special methods of dealing with hazardous wastes or solid wastes and the volume of wastes or solid wastes which would be accepted at the disposal site.

(Ord. 83 § 13(D), 1971)

8.08.230 - Applicant—Requirements.

The applicant must show to the satisfaction of the board that he:

- A. Has available equipment, facilities and personnel to meet the standards established by this chapter, applicable state statutes, and rules and regulations;
- B. That they are registered with the State of Oregon Corporation Division and are duly authorized to conduct business within the State of Oregon. A list of stock-holders holding more than ten percent of a corporation or similar entity, or owners or partners of any other type of registered business, must be submitted to the board and any subsequent cumulative change in excess of ten percent of ownership thereof, must be reported within ten days of such change of ownership to the board;
- C. Has sufficient personnel experienced in the operation of comparable disposal facilities considering the type, duration, volume of disposal, weather conditions, and methods of disposal to assure ability to comply with Chapter 459 ORS and rules and this chapter and the regulations thereunder;
- D. Has, as a condition of receiving a franchise, submitted to the county before issuance of the franchises, proof of financial assurance in a form and of a value sufficient to satisfy the provisions of ORS 459.272 and Metro Code 5.01.060(c)(4), as may be amended, if applicable, unless otherwise required by the board.

(Ord. 83 § 13(E), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.240 - Indemnification.

An applicant must, as a condition to the grant and continual enjoyment of his franchise, and within ten days after the award of the franchise but prior to the grant thereof, insure so as to indemnify the county and the applicant, jointly and severally, for any liability in connection with the operation of a disposal site regulated by this chapter, rules and regulations, and save and hold the county harmless for any loss, legal or equitable, including court costs and reasonable attorneys' fees arising out of the operation of a disposal site. Commercial general liability insurance shall be in amounts no less than those specified by the county in the franchise agreement.

Applicant shall obtain and keep in effect during the term of their franchise, Pollution Liability Insurance, including Asbestos Liability Insurance, covering the applicant's liability for bodily injury, property damage, and environmental damages resulting from "sudden accidental" or "gradual" pollution and related cleanup costs incurred by the applicant all arising out of the operations of the franchise (including the transportation risk, when applicable). Pollution Liability Insurance shall be in amounts no less than those specified by the county in the franchise agreement.

(Ord. 83 § 13(F), 1971)

(Ord. No. 728, § 3, 10-20-2009; Ord. No. 747, § 3(Exh. A), 5-1-2012)

8.08.250 - Investigation of financial ability.

An applicant must prove to the satisfaction of the board that he has sufficient financial ability to meet the obligations imposed by this chapter, rules and regulations in the disposal of any and all solid waste proposed to be disposed of by the applicant for the term of the franchise. The person applying for a franchise pursuant to this chapter shall submit to such financial investigations deemed necessary by the board to determine the financial ability of the applicant. Upon application for franchise and during the term of franchise and two years thereafter, the board may investigate, as a condition of the continued enjoyment of the franchise, any financial aspect of the applicant and may also demand copies of any annual report, articles of incorporation, evidence of net worth or any other relevant financial data.

(Res. 71-39 § 2, 1971; Ord. 83 § 13(G), 1971)

8.08.260 - Capability.

An applicant must prove to the satisfaction of the board that the applicant has the capability to dispose of all wastes or solid wastes proposed to be disposed of by the applicant in the service area for which he has applied.

(Res. 71-39 § 3, 1971; Ord. 83 § 13(H), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.270 - Reserved.

Editor's note— Ord. No. 728, § 3, adopted Oct. 20, 2009, deleted § 8.08.270. Former § 8.08.270 pertained to continuance of existing service and derived from Ord. 83, § 13(I), adopted 1971.

8.08.280 – Franchise issuance—Review.

Application for disposal franchises shall be reviewed by the following departments of the county: health and human services department, land use and transportation department, county counsel and other county offices and departments designated by the board. Each office or department shall make an investigation as is within the interest of the department. Any interested department may make a relevant investigation of the proposed disposal site before or after the grant of franchise, and shall have the right of entry before or after the franchise grant upon the disposal site to assure compliance with such laws, rules, regulations or ordinances within the competence of such department.

(Ord. 83 § 14(A), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.290 - Franchise issuance—Findings.

Upon the basis of the application, evidence submitted and results of any investigations, the committee shall make specific findings of fact on the following:

- A. Qualifications of the applicant in the light of this chapter, statutes, rules and regulations;
- B. The service, equipment and facilities are provided by the applicant;
- C. Conditions of service should be imposed, including but not limited to, whether the site should be open to the public and under what conditions, whether certain types of wastes, solid wastes or hazardous wastes should be excluded from the site or should be required to be accepted at the site;
- D. Whether the site can be integrated with existing private, regional, county-owned or operated sites or proposed sites;
- E. Public utility facilities;
- F. Location of facilities in relation to population centers within the county;
- G. Compliance with the Regional Solid Waste Management Plan.

(Ord. 83 § 14(B), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.300 - Franchise issuance—Recommendation.

On the basis of its findings, the committee shall recommend to the board whether or not the application should be granted, denied or modified. The board shall issue an order granting, denying or amending the application and make specific findings of fact based on all evidence before the board regarding the standards set forth by this chapter and rules and regulations as to whether the public health, safety and welfare are served by the grant of franchise. The board may attach whatever conditions to the grant of franchise it finds necessary to meet the purpose of this chapter and public health, safety and welfare.

(Res. 71-48, 1971; Ord. 83 § 14(C), 1971)

8.08.310 - Operation responsibility.

The franchisee shall, unless otherwise specified by the board, provide all land, utilities, buildings, labor, tools, services and equipment necessary for the conduct of a disposal site pursuant to this chapter, rules and regulations and shall provide for maintenance thereof. All labor provided shall be supervised by experienced personnel.

(Ord. 83 § 14(D), 1971)

8.08.320 - Operation commencement.

The franchisee shall commence operation of the disposal site on the date specified by the board.

(Ord. 83 § 14(E), 1971)

8.08.330 - Appeal of adverse order.

If the order of the board is adverse to the holder of any existing franchise, it shall not become effective until thirty days after the date of said order unless the board finds there is an immediate and serious danger to the public, or that a health hazard or public nuisance would be created by the delay; provided, however, that a denial of franchise to any person not operating at the time of appeal, a disposal site pursuant to this chapter shall not be construed to permit that person to commence operation of a disposal site. The applicant or a franchise holder may request a public hearing before the board upon the board's order by filing a written request for the hearing with the board within thirty days after the date of said order. Failure to request a hearing shall be grounds for requiring a new application.

(Ord. 83 § 15(A), 1971)

8.08.340 - Hearing.

On the filing of such request for hearing, the board shall set a time and place for public hearing upon its order, which hearing shall not be more than thirty days from the date of the request for hearing. The applicant or franchise holder may submit relevant evidence to the board upon the board's order. Other

interested persons or affected public agencies or private parties may offer oral or written testimony. The board may, following the public hearing, affirm, modify or rescind its prior order.

(Ord. 83 § 15(B), 1971)

8.08.350 - Final order of rejection—Reconsideration.

If the board makes a final order rejecting all or part of the application for franchise, the applicant may not submit another application for the same service area or a portion thereof, for a period of six months, unless the board finds that public interest requires reconsideration within a shorter period of time.

(Ord. 83 § 15(C), 1971)

8.08.360 - Joint service under franchise.

Upon recommendation of the committee, if the board finds that an applicant for a franchise cannot provide service to a single customer, a group or type of customers, or for a particular type or unusually large quantity of solid waste, the board may issue a franchise for joint service with another person who can provide that service and may attach such conditions in the grant as are necessary for the protection of public health, safety and welfare; provided, however, that in all cases where the board finds that the applicant is able to provide adequate service within a defined service area, it may issue an exclusive franchise for that area to the applicant.

(Ord. 83 § 16(A), 1971)

8.08.370 - Temporary or permanent service under franchise.

If a holder of a franchise is unable to provide disposal service for particular types or unusually large quantities of solid waste, the board may issue a temporary or permanent franchise to another person for the limited purpose of providing service to the customer or customers having such particular types or unusually large quantities of wastes or solid wastes and attach such conditions as are necessary for the protection of public health, safety and welfare.

(Ord. 83 § 16(B), 1971)

8.08.380 - Temporary certificate.

Upon the recommendation of the health and human services department, if the board finds that the need for public service justifies action before a complete investigation and final determination can be made, it may order the health and human services department to issue a temporary certificate, valid for a stated period not to exceed six months, entitling a person to operate a disposal site within a defined service area.

(Ord. 83 § 16(C), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.390 - Transfer of franchise.

- A. A franchise holder may transfer his franchise or any rights incidental thereto, or portion thereof, to other persons only upon written notice to, and approval by, the board.
- B. Upon the finding and recommendation of the committee, the board may approve the transfer if it finds the transferee meets all applicable requirements as if the transferee were an applicant for a franchise. The board shall approve or disapprove any application for transfer of a franchise within a reasonable time.
- C. Upon recommendation of the committee, the board may permit the franchise to be pledged as security for purchase of land, equipment or facilities needed to provide service, or to finance purchase of a business providing service under this chapter. The board may attach whatever conditions it deems appropriate to guarantee maintenance of service.

(Ord. 83 § 17, 1971)

8.08.400 - Responsibilities of franchise holder.

The holder of a franchise:

- A. Shall not voluntarily discontinue service without giving at least ninety days written notice of the proposed discontinuance of service in any area covered by his franchise to the board and to any collector and regular customer utilizing his disposal site. No discontinuance of service to any area or portion thereof, shall be made without receipt of approval of the board prior to discontinuing such service during the term of his franchise. The section shall not apply to any order of foreclosure or restriction of use by any public agency, public body or court having jurisdiction; provided, however, that the corporate surety bond provided for pursuant to this chapter shall be forfeit upon such order of foreclosure or restriction of use which substantially impedes service to the extent of costs incurred by the county in providing disposal site facilities caused by interruption of service;
- B. May contract with another person to operate a disposal site after giving written notice to, and obtaining approval of the board. The board shall approve the contract unless it finds that the quality or extent of service could be jeopardized or the provisions of this chapter, rules and regulations could not be met. The board may attach whatever conditions it deems necessary to the contract to provide for public health, safety and welfare;
- C. Shall take such measures as may be necessary to control:
 - 1. Vector, rodents, flies, insects, vermin and animals by appropriate extermination methods,
 - 2. Blowing of dust, paper and other materials from the disposal site,
 - 3. Unauthorized entry and dumping on the disposal site, and
 - 4. Nuisances detrimental to public health, safety and welfare;
- D. May refuse disposal service to any customer, if the customer refuses to pay for service in accordance with the rates established by regulation of the board pursuant to this chapter;
- E. Shall have sufficient fire fighting equipment available on the site to control fires;
- F. Shall be responsible for the management of the disposal site facilities and personnel for which he has been given a franchise. Such responsibility shall not be transferable and shall not be capable of being contracted to any other person.

(Ord. 83 § 18, 1971)

8.08.410 - Enforcement—Notice of violation.

The health and human services department shall, upon reasonable cause, make an investigation to determine if sufficient reason and cause to suspend, modify, revoke or refuse to renew a franchise as provided for by Section 8.08.440 of this chapter, exists. If there is sufficient evidence to constitute a violation of this chapter, state statutes or rules and regulations, the health and human services department shall notify the franchise holder in writing of the alleged violation and what steps, if any, can and should be taken to cure the violation. The health and human services department shall apprise the committee of such notification. Upon a finding that a violation exists, and the franchise is unable or refuses to cure the violation, the committee shall make its recommendation to the board that the franchise be suspended, modified, revoked, or that it not be renewed.

(Ord. 83 § 19(A), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.420 - Enforcement—Right to inspect.

The health and human services department shall have the right to enter and inspect all disposal sites franchised by this chapter at any time.

(Ord. 83 § 19(B), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.430 - Enforcement—Regulation of specific waste.

The board may, at any time, provide by regulation that the franchise shall or shall not dispose of any specific waste or solid waste at any disposal site which is found to be hazardous, of unusual quantity, or otherwise be dangerous to public health, safety and welfare and may provide for an alternative method or place of disposal without compensation to the franchisee.

(Ord. 83 § 19(C), 1971)

8.08.440 - Suspension, modification, revocation or refusal to renew—Findings.

Upon recommendation by the committee, or upon its own motion, the board may suspend, modify, revoke or refuse to renew a franchise upon a finding that the holder thereof has:

- A. Violated this chapter, state statutes or rules and regulations;
- B. Materially misrepresented facts or information given in the application for the franchise;
- C. Refused to provide adequate service at the franchise disposal site;
- D. Misrepresented the gross receipts from the operation of a franchised disposal site; or
- E. Failed to pay either the fees specified in Sections 8.08.500 through 8.08.540 on the date such fees are due or the costs of correcting hazardous conditions incurred by the county or its servants or agents.

(Ord. 83 § 20(A), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.450 - Suspension, modification, revocation or refusal to renew—Compliance order.

In lieu of immediate suspension, modification, revocation, or refusal to renew a franchise, the board may order compliance and make the suspension, modification, revocation, or refusal to renew a franchise contingent upon compliance with the order within a period of time stated in said order.

(Ord. 83 § 20(B), 1971)

8.08.460 - Suspension, modification, revocation or refusal to renew—When effective.

If the board suspends, modifies, revokes or refuses to renew a franchise, the action shall not become effective until thirty days after the date of the order, unless the board finds that there is serious and immediate danger to the public health, safety or welfare, or that a public nuisance would be created. The holder of a franchise may request the public hearing before the board upon the board's order by filing a written request for such hearing with the board within thirty days after the date of such order. Upon the filing of a request for hearing, the board shall set a time and place for public hearing upon its order which hearing shall not be more than thirty days from the filing of such request for hearing. The franchise holder and other interested parties or affected public agencies, may submit oral and written evidence to the board relevant to the board's order. The board may, following the public hearing, affirm, amend or rescind its prior order. Said order shall be a final order.

(Ord. 83 § 20(C), 1971)

8.08.470 - Service interruption—Hearing.

The holder of any franchise agrees, and it is a condition of his obtaining and holding the franchise, that whenever the board finds that failure of service for any reason, including but not limited to acts of God or work stoppages, whether or not through the fault of the franchisee, would result in the creation of a health hazard or public or private nuisance, the board shall, after reasonable notice, but not less than twenty-four hours' notice to the franchisee, or after a public hearing, if the franchisee requests such hearing within twenty-four hours after receipt of notice, have the right to authorize another franchise holder or person or the county, to provide service or use and operate the land, facilities and equipment of the franchise holder through leasing or otherwise, to provide emergency service in the event of serious interruption of service to all or a class or a group of customers for so long as such interruption continues.

(Ord. 83 § 21(A), 1971)

8.08.480 - Service interruption—Expense liability.

If the board orders that another person or the county provide service or use or operate the land, facilities or equipment of the franchise pursuant to Section 8.08.470, the franchisee shall be liable for any expense incurred by such person pursuant to said order.

(Ord. 83 § 21(B), 1971)

8.08.490 - Term of franchise.

Franchises shall be renewable unless grounds exist for refusal to renew pursuant to this chapter. The term for franchises shall be designated by the board which in no event shall exceed a period of five years unless the board makes a determination based on site longevity, population to be served and probable use, that the franchise shall be granted for a longer term.

(Ord. 83 § 22, 1971)

8.08.500 - Franchise fees—Collection.

The board shall collect in the manner and at the time provided by regulation of the board from the holder of any franchise, an annual regulatory fee, measured by three percent of the gross receipts of the franchisee, or one hundred dollars, whichever is greater, which shall be paid into the general fund of the county and shall be used for purposes relating to solid waste control, abatement of nuisances, land reclamation, acquiring of land and equipment for transfer stations, disposal site acquisition or other purposes relating to Section 8.08.020 of this chapter.

(Ord. 83 § 23(A), 1971)

8.08.510 - Franchise fees—Exclusivity.

The fee provided for in Section 8.08.500 shall not be exclusive of any further revenue or regulatory fee, tax or charge to be imposed hereafter by any public agency.

(Ord. 83 § 23(B), 1971)

8.08.520 - Franchise fees—Quarterly report.

The franchisee shall provide the health and human services department with a quarterly report of all revenues, fees and charges, from whatever source derived, received in connection with the operation of this disposal site franchise and shall keep detailed records of his costs, receipts and income for the inspection of the health and human services department or their agents.

(Ord. 83 § 23(C), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.530 - Franchise fees—When due.

Fees provided for by Section 8.08.500 shall be due on a quarterly basis.

(Ord. 83 § 23(D), 1971)

8.08.540 - Franchise fees—Records.

The board may require, by regulation, for any and all records and detailed information necessary to provide any information relevant to the franchisee's costs, receipts and income in order to carry out the purpose of Sections 8.08.500 through 8.08.530.

(Ord. 83 § 23(E), 1971)

8.08.550 - Exclusive franchises.

The board may issue an exclusive franchise for any and all types of wastes or solid wastes disposed of within the county; provided, however, that the holder of any exclusive franchise agrees, and it is a condition of his obtaining and holding an exclusive franchise, that, upon a finding of the board, that any waste or solid waste may be disposed of in a manner more consistent with public health, safety and welfare, the board may enter an order based on such findings that such waste or solid waste shall be disposed of at another qualified disposal site, and, further provided; that the board may amend the franchise to increase or decrease the area in which a disposal site serves according to the franchisee's ability or inability to provide service in accordance with the criteria set forth in Sections 8.08.180 through 8.08.320 of this chapter. The board shall not amend the franchise unless a public hearing has been held and due notice given thereof.

(Ord. 83 § 24, 1971)

8.08.560 - Operation by county.

- A. Notwithstanding any other provision of this chapter except Section 8.08.110, the county may by regulation at any time, operate and maintain a disposal site to service the whole, or any part, of the area within or without the boundaries of the county, to dispose of any and all waste or solid waste generated within the county.
- B. The board is authorized by regulation to acquire by lease, purchase, or otherwise, land and equipment necessary to carry out the provisions of this section.

(Ord. 83 § 25, 1971)

8.08.570 - Operation on county land.

- A. Notwithstanding any provision of this chapter, the board may, by resolution and order, require a franchisee to operate a waste or solid waste disposal site on land owned, leased, held under contract of sale, or otherwise in possession of the county, under such conditions deemed appropriate by the board for the protection of public health, safety and welfare.
- B. The board is authorized to acquire by lease, option, purchase or other method, land and materials for the purpose of carrying out the provisions of this chapter.

(Ord. 83 § 26, 1971)

8.08.580 - Rate determination—Authority.

The board may establish rates for any given disposal site. Should the board choose to establish rates they shall do so as part of the franchise agreement issued. Any such rates established shall not be unreasonably high or substantially higher than those charged generally within the region under similar service requirements and for the same or similar quality of service; provided, however, that the board may establish a different rate schedule more consistent with public health, safety and welfare. In determining whether the rates are reasonable under this section, the board shall give due consideration to the rate guidelines established by Sections 8.08.590 through 8.08.650.

(Ord. 83 § 27(A), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.590 - Rate determination—Establishment.

When establishing rates for disposal sites, in addition to other factors specified within this section, the board shall consider the type of site, cost of operation of such site, whether or not it is open to the public, the type of waste to be disposed of, and cost of compliance with federal, state and local laws and rules and regulations enacted pursuant thereto, together with such other factors which the board finds affect the rates to be charged. The board may establish uniform rates for all disposal sites or may establish different rates based upon the factors specified in Sections 8.08.580 and 8.08.610 through 8.08.650.

(Ord. 83 § 27(B), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.600 - Reserved.

Editor's note— Ord. No. 728, § 3, adopted Oct. 20, 2009, deleted § 8.08.600. Former § 8.08.600 pertained to rate determination—findings required and derived from Ord. 83, § 27(C), adopted 1971.

8.08.610 - Rate determination—Consideration factors.

Other factors which the board may take into consideration in the determination of rates or proposed rate changes are:

- A. The investment in facilities, equipment, services and management;
- B. Local wage scales; concentration of customers in the area of service; methods of storage collection, transportation and disposal of wastes and solid wastes;
- C. Salvage revenues; land reclamation; costs of disposal;
- D. Reasonable return to the owners of the business;
- E. Future demands of the area or site which may be anticipated in equipment;
- F. Facilities, personnel or land, extra charges where the type or character of wastes or solid wastes, including but not limited to, wastes with particularly offensive odors, require special handling or service and extra charges for providing janitorial services on the premises where services are provided.

(Ord. 83 § 27(D), 1971)

8.08.620 - Reserved.

Editor's note— Ord. No. 728, § 3, adopted Oct. 20, 2009, deleted § 8.08.620. Former § 8.08.620 pertained to rate determination—investigation and derived from Ord. 83, § 27(E), adopted 1971.

8.08.630 - Rate determination—Public service findings.

In establishing rates, the board shall find that such rates shall be just, fair, reasonable and sufficient to provide proper service to the public. The board may consider the rates charged by other persons providing the same or similar services in the same or other areas.

(Ord. 83 § 27(F), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.640 - Rate determination—Interim guidelines.

Where no rate has been established for a particular type of service, the board may establish an interim rate until it makes a final determination of the rate for that type of service. In establishing such a rate, the board shall give due consideration to all the factors established as guidelines for the committee and the board in Sections 8.08.580 through 8.08.630.

(Ord. 83 § 27(G), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.650 - Reserved.

Editor's note— Ord. No. 728, § 3, adopted Oct. 20, 2009, deleted § 8.08.650. Former § 8.08.650 pertained to rate determination—annual hearing and derived from Ord. 83, § 27(H), adopted 1971.

8.08.660 - Rate preferences prohibited.

- A. No franchise holder subject to regulation under this chapter shall give rate preference to any person or locality served by the franchisee unless authority for said rate preference is provided for by the county within the applicable franchise agreement issued under the authority of Section 8.08.080 herein.
- B. Nothing in this section is intended to prevent any person from volunteering service at reduced costs for a charitable, community, civic or benevolent purpose.

(Ord. 83 § 28, 1971)

(Ord. No. 747, § 3(Exh. A), 5-1-2012)

8.08.670 - Service charge payment responsibility.

Any person who receives service shall be responsible for payment for such service.

(Ord. 83 § 29, 1971)

8.08.680 - Correction and closure orders—Authority.

- A. The health and human services department is authorized to make and issue:
 - 1. Correction orders which shall be an order to correct any specific violation of this chapter, rules or regulations and to cease immediately therefrom until the board determines that a violation has occurred; or
 - 2. Closure orders ordering the franchisee to close the disposal site on the basis of a violation of this chapter, rules or regulations.
- B. Before issuing a correction or closure order, the health and human services department must have reasonable grounds to believe that a violation has occurred. In no event shall the health and human services department make or issue such an order without first having received a written, signed and acknowledged complaint containing allegations of a violation of this chapter, which complaint shall specify the alleged violation in precise language sufficient to apprise the alleged violator of the act or acts to be enjoined, or by observing the violation himself. The order shall direct the alleged violator and the franchisee to appear at the time and place stated in the order to show cause, if any there be, why:
 - 1. The alleged violator should not be immediately enjoined from doing the act or acts specified in the order if a correction order; or
 - 2. Why the disposal site should not be closed, if a closure order.

(Ord. 83 § 30(A), 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.690 - Correction and closure orders—Hearing.

At a hearing at which the order directs the franchisee to show cause, if any there be, why he should not be immediately enjoined from doing the act or acts specified with regard to a correction order or closure of a disposal site, with regard to a closure order, the board shall hear the allegation or allegations and response of the alleged violator and shall determine whether or not the franchisee, his servants, agents, contractors or transferees have committed a violation.

(Ord. 83 § 30(B), 1971)

8.08.700 - Correction and closure orders—Violation.

If the board determines that a violation has been committed, the board may make and enter an order permanently directing the franchisee and any other person named in the order, to cease and desist the act or acts complained of, or, if reasonable cause be found in the violation of this chapter, rules or regulations, the board may order a closure of the disposal site.

(Ord. 83 § 30(C), 1971)

8.08.710 - Land reclamation.

The board may provide, by regulation, for a land reclamation program applicable to any and all disposal sites located within the boundaries of the county over which county has jurisdiction. Such regulation may include a final plan of reclamation after completion of the use of the disposal site for disposal purposes and phased completion of land reclamation as the board may require.

(Ord. 83 § 31, 1971)

8.08.720 - Reserved.

Editor's note— Ord. No. 728, § 3, adopted Oct. 20, 2009, deleted § 8.08.720. Former § 8.08.720 pertained to transfer station systems and derived from Ord. 83, § 32, adopted 1971.

8.08.730 - Nonliability for acts of other agencies.

The franchisee shall agree and it is a condition of his franchise, that the county is in no way responsible for the legislative or ordinance-making power of other public agencies which may regulate, terminate or in any way inhibit his franchise and that the county shall not be liable by any thereof of condemnation or taking of property, by any governmental body other than the county, or any interference with the franchise by any public agency other than the county.

(Ord. 83 § 33, 1971)

8.08.740 - Effect of termination by outside jurisdiction.

If a disposal site is terminated by a lawful final order of any public agency having jurisdiction in a period less than the term of a franchise, the franchise may be terminated by the board on the same date.

(Ord. 83 § 34, 1971)

(Ord. No. 728, § 3, 10-20-2009)

8.08.750 - Review of board action.

Decisions of the board pursuant to this chapter shall be reviewable solely and exclusively in the Circuit Court of the state of Oregon, by writ of review in the manner prescribed pursuant to ORS 34.010 through 34.100. Any aggrieved party may ask review of the board's actions.

(Ord. 83 § 36, 1971)

8.08.760 - Conformity with law.

Neither this chapter, nor Ordinance No. 59 of the county, adopted July 22, 1969, as amended, shall in any way be a substitute for, nor eliminate in any way, the necessity for conformity with any and all laws or rules of the state of Oregon or its agencies, nor any ordinances or rules and regulations of the county.

(Ord. 83 § 37, 1971)

8.08.765 - Citation.

A county officer, as defined in the uniform citation ordinance, and a private citizen may issue a citation for violation of this chapter and the rules and regulations adopted pursuant thereto. Citations shall conform to the requirements of the uniform citation ordinance, Chapter 1.08. Enforcement of citations shall be through Chapter 1.08.

(Ord. 419 § 2(B) Exh. P (part), 1997)

(Ord. No. 728, § 3, 10-20-2009)

8.08.766 - Citation—Other enforcement procedures not excluded.

The provisions of this chapter are in addition to and not in lieu of any other procedures and remedies provided by law, including equitable relief and damages.

(Ord. 491 § 2(B) Exh. P (part), 1997)

8.08.770 - Violation—Penalty.

- A. Violation of this chapter or regulations shall be deemed a misdemeanor, and shall be punishable, upon conviction, by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.
- B. Violation of this chapter by any officers, directors, partners, or others having a direction over any person in violation of this chapter, shall subject each such person to such fine and imprisonment.
- C. Each day a person is in violation of this chapter shall be deemed a separate violation thereof.

(Ord. 83 § 39, 1971)

APPENDIX
IN THE BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

In the Matter of) RESOLUTION AND ORDER

Adoption Regulations)

Pursuant to the) NO. 71-40

Solid Waste Disposal)

Site Ordinance of)

Washington County,)

Ordinance No. 83)

The above entitled matter having come on regularly before the Board at its meeting of March 23, 1971; and

It appearing to the Board that the Solid Waste Disposal Site Ordinance, Ordinance No. 83, has been adopted this day by the Board of County Commissioners for Washington County, Oregon; and

It appearing to the Board that various sections of Ordinance No. 83 require that the Board adopt regulations for the administration of said ordinance and the Solid Waste Disposal Site Program in Washington County; and

It appearing that regulations have been proposed to this Board which, at this time, the Board deems adequate and necessary to protect public health, safety and welfare and to fulfill the requirements of said Ordinance No. 83; and

It appearing to the Board that no other regulations be adopted by this Board at this time for the administration of Ordinance No. 83, and the Board being fully advised in the premises; it is, therefore

RESOLVED AND ORDERED that the following regulations be, and they hereby are, adopted by this Board pursuant to the Solid Waste Disposal Site Ordinance of Washington County, Ordinance No. 83, to wit;

1. Directions to the Health Officer pursuant to Section 4A of Ordinance 83;

- a. In addition to those duties specifically outlined in Ordinance No. 83, the Health Officer shall be responsible for the following:
 - (1) Establishment of test procedures to determine effect of the disposal operation upon the environment, which tests shall include but not be limited to, ground water sampling for bacteriological and chemical contamination. Said samplings may be taken either by the Health Officer or, if the Health Officer so requires, by the Disposal Site Operator or his representative with test results forwarded to the Health Officer.
 - (2) The Health Officer shall inform the Board of any substantial change in the quantity or quality of ground water or water in nearby water courses.
- b. In issuing a permit to an applicant who proposes to fill a site with demolition materials, the Health Officer is authorized and directed to make such tests as are necessary to safeguard public health, safety and welfare. In issuing a permit pursuant to Section 7E of Ordinance 83 the Health Officer may attach such conditions as are deemed necessary to protect public health, safety and welfare and shall include, but not be limited to:
 - (1) The period of the permit.
 - (2) The frequency and nature of cover materials.
 - (3) Control of vector population.
 - (4) Posting or fencing to prevent promiscuous dumping.

Such permit may be revoked in the manner set forth in Section 20 of Ordinance No. 83.

2. Disposal of agricultural wastes pursuant to Section 7B of Ordinance No. 83.

- (a) Residues from agricultural practices including animal wastes which are not used for fertilizer or for other productive purposes and are not salvageable for agricultural purposes shall be lawfully disposed of in a sanitary landfill, incinerator or composting operation.
- (b) Residues from agricultural practices which are deposited on land surface, as fertilizer or for disposal shall be plowed into the soil immediately unless some other method of disposal is found consistent with the public health, safety and welfare by the Health Officer.
- (c) Agricultural waste used for animal feed shall not accumulate in any area which may create a nuisance, vector production and sustenance, conditions for transmission of disease to men or animals or hazards to the public.

3. Regulations adopted pursuant to Section 11 of Ordinance No. 83.

- (a) Open Burning and Incineration. Open burning and incineration are regulated by the Air Quality Control Code of Washington County, Oregon, Ordinance No. 45, adopted by the Board of Commissioners on June 6, 1967, or equivalent legislation.
- (b) On-Site Disposal or Reduction. The plans for all on-site disposal or reduction systems, including but not limited to, compactors, balers, shredders, commercial grinders, vacuum and pulping systems, shall be submitted to the Board prior to installation for review and approval. The Board may approve such processes and plans upon the recommendation of the Health Officer and Advisory Committee.
- (c) Burial Method:
 - (1) Open dumps. The operation of open dumps for the disposal of solid waste is prohibited, provided, however, that disposal of demolition materials and composting of agricultural materials are not subject to this subsection. No solid waste shall be buried on any other site with the exception of an authorized disposal site for which a franchise has been issued pursuant to this ordinance, provided, however, that the Health Officer may permit such burial on a temporary or emergency basis upon a finding that said burial will not be detrimental to public health, safety or welfare.
- (d) Composting Plant Operation. A composting plant shall be operated at all times to conform to the manufacturers' operating instructions or patent processes. All portions of compostable waste shall be subject to treatment. Temperature control and measurement devices shall be an integral part of the system. Compost shall be removed from the site not later than one year after treatment is completed. Solid Waste that is nonreducible by composting shall be disposed of in a sanitary landfill.
- (e) Sanitary Landfill Operations.
 - (1) Frequency of cover. When putrescible material is deposited at a disposal site, cover materials shall be supplied at intervals necessary to prevent nuisances, vector production and sustenance, conditions for transmission of disease to man or animals or hazards to the public. Cover materials shall be supplied at intervals necessary to prevent:
 - 1.1 Vector production and sustenance.
 - 1.2 Conditions for transmission of disease to man or animals.
 - 1.3 Air pollution.
 - 1.4 Pollution of surface or ground waters.
 - 1.5 Hazards to service or disposal workers or the public.
 - (2) Diversion. Drainage ditches shall drain surface waters away from the filled area and shall be constructed so as to allow free-flow of water.
 - (3) Blowing Debris. Wind-carried materials shall be controlled by a fence or other method to prevent air-carried debris from leaving the disposal site.
 - (4) Compaction and Cover.
 - 4.1 Open burning of solid waste at a disposal site is prohibited.
 - 4.2 The disposal site operator shall make provision for winter cover material.
 - 4.3 Final cover over a completed fill shall not be less than two feet of compacted earth.
 - 4.4 Finished slope of final cover shall conform to the ultimate site use plan.

- 4.5 A maintenance program for control of erosion and stabilization of the fill shall be provided after completion of the filling operation.
- (5) Auxiliary Equipment. Provision shall be made for auxiliary or standby equipment for operation of the disposal site. Such equipment shall include all equipment necessary for cover and burial of solid wastes as well as for fire control and prevention.
 - (6) Incinerator Operation. If ash or residue from an incinerator contains putrescible material, such material shall be deposited only in a sanitary landfill.
 - (7) An attendant shall be on duty at all times the site is open for public use.
 - (8) Periodic testing for ground water pollution on well point sites adjacent to or on the disposal site shall be provided by the Health Officer.
 - (9) A plan for staged development of ultimate site use shall be submitted by the permittee or franchisee and shall, upon approval by the Board, be complied with by the franchisee or permittee unless the Board provides a plan more consistent with health, safety and welfare.
 - (10) The franchisee or permittee shall procure all necessary access permits on state or county roads from the appropriate authority.
 - (11) The permittee or franchisee shall submit, prior to the issuance of a permit or franchise, traffic control plans so as to provide for storage of vehicles and provision for off-street parking to prevent traffic congestion in the vicinity of the site.
- (f) Hazardous Solid Waste. The disposal of hazardous solid waste shall be conducted under the supervision of the Health Officer who shall make all necessary provisions to safeguard public health, safety and welfare.
4. Transfer Station Regulations pursuant to Section 32 of Ordinance 83. The Board may permit a franchisee or any other person to operate transfer stations and may attach such conditions as are deemed necessary for preservation of public health, safety and welfare on the issuance of such permit.

DATED this 23rd day of March, 1971.

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

Chairman

Recording Secretary