

FERRY COUNTY ORDINANCE NO. 2008-05

AN ORDINANCE relating to the flow of solid waste generated and collected within unincorporated Ferry County, prohibiting the disposal of such solid waste except at facilities consistent with the Ferry County Solid Waste Management Plan and approved by the Ferry County Commissioners.

PREAMBLE

Under Chapter 70.95 Revised Code of Washington, Ferry County (the "County") has primary responsibility for adopting a solid waste management plan to control the disposal of solid waste generated and collected within its borders. The County has already adopted a solid waste management plan which has been approved as required by state law.

Under Chapter 36.58 RCW, the Board of County Commissioners of Ferry County may, by ordinance, acquire disposal sites and establish a system of solid waste disposal for all the unincorporated areas of Ferry County.

The County considers it essential to develop a method of garbage and refuse disposal that is reliable, cost effective and environmentally safe.

The County continues to examine and study the problems relating to the disposal of solid waste generated and collected in both the incorporated and unincorporated areas of the County and as a result finds that:

1. Appropriate disposal of garbage, refuse and solid waste materials resulting from domestic, agricultural, commercial and industrial activities is an ever-increasing problem.
2. Traditional methods of disposing of solid wastes are no longer adequate to meet the growing problems. Improper methods and practices of handling and disposal of solid wastes pollute our land, air and water resources, blights our countryside, depress land values, increase costs, impair economic growth and damage the overall quality of our environment.
3. Considerations of natural resource limitations, economics and the environment make it necessary to control the flow of solid waste in the County, and to support recycling and composting programs designed to reduce the volume of solid waste disposed.
4. This County has significant geographic and jurisdictional limits within its borders that would affect the efficiency of a County-wide collection and disposal system.

SECTION 1. PURPOSE

The purpose of this ordinance is to establish a system to control the flow of all solid waste for the unincorporated areas of the County to prevent land, air and water pollution and to conserve the natural and economic resources of the County. Ferry County desires to dispose of solid waste in a manner which reduces adverse public health, environmental and economic consequences of improper or unlawful disposal of solid waste. To do so requires the County to effectively control

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the flow of solid waste generated or collected within the unincorporated areas of the County in accordance with its Solid Waste Management Plan.

1. To carry out this purpose, all in the interest of protecting the public health, preventing air and water pollution, and avoiding the creation of nuisances, this ordinance is adopted to:
 - a. Regulate the flow of solid waste in the unincorporated areas of Ferry County.
 - b. Provide a framework for interlocal cooperation in controlling the flow of solid wastes.

SECTION 2. DEFINITIONS

1. "Agricultural Wastes" means waste resulting from the production of farm or agricultural products including manures.
2. "Board" means the Board of County Commissioners of Ferry County.
3. "Collecting Agent" means any person, firm, corporation or entity primarily in the specialized business of transporting solid waste for collection and/or disposal for all potential customers within a specified area. This definition may further apply to incorporated areas and other jurisdictions as may be included by interlocal cooperation agreement with other governmental entities.
4. "Commercial Waste" means any solid waste derived from commercial activities other than manufacturing or processing operation. Solid waste generated from small business activities conducted in a household is considered household waste.
5. "Composting" means the controlled microbial degradation of organic waste yielding a nuisance-free product, as determined by the Health District.
6. "Demolition Waste" means solid waste, largely inert waste resulting from the demolition or razing of buildings, roads and other man-made structures.
7. "Designated Disposal Site" means disposal facilities as specified in the adopted Solid Waste Management Plan for Ferry County Commissioners by resolution.
8. "Disposal" means the discharge, depositing, injection, dumping, leaking or placing of any solid waste into or on any land or water.
9. "Disposal Facility" means a solid waste site, processing or transfer facility where any final treatment, utilization, processing or disposal of solid waste occurs. This includes, but is not limited to, transfer stations included as part of the County disposal system, sanitary landfills, incinerators, composting plants, facilities for the recovery of resources from solid wastes or the conversion of such wastes to more useful forms or combinations thereof.

10. "Facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.
11. "Garbage" means, but shall not be limited to, offal or animal and vegetable wastes, scrap, waste materials, dead animals, discarded articles, garbage disposal and swill, any or all of which may be mixed with refuse. The term does not include disposal of cesspool septic tank wastes which are hauled in special equipment as an incidental part of a cesspool or septic tank cleaning service.
12. "Health District" means the Northeast Tri-County Health District.
13. "Household Waste" means any solid waste derived from households (including single and multiple residences, hotels, and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas), but excluding human septage.
14. "Industrial Waste" means waste noncommercial byproducts of manufacturing and/or processing operations.
15. "Inert Waste" means noncombustible, nondangerous solid waste that is likely to retain its physical and chemical structure under expected conditions of disposal, including resistance to biological attack and chemical attack from acidic water.
16. "Jurisdiction" means any municipal corporation, municipality, government agency providing its own collection and/or disposal service, or legal entity of any tribe or nation.
17. "Landfill" means the same as Facility as defined in this section.
18. "Nuisance" means unlawfully doing an act, or omitting to perform a duty, which act or omission either annoys, injures, or endangers the health or safety of others, or unlawfully interferes with, obstructs or tends to obstruct, any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life, limb or in the use of property.
19. "Persons" means any individual, association, firm partnership, political subdivision, government agency, municipality, industry public or private corporation, or any other entity whatsoever.
20. "Putrescible Material" means any organic material which will decompose, and which may give rise to foul-smelling, offensive products, as determined by the Health District.
21. "Reclamation" means the disposal process in which there is hand and/or mechanical segregation of solid waste to recover material for sale and/or reuse, including source separation. Materials which can be reclaimed, include but are not limited to: newsprint,

cardboard, aluminum, glass, plastics and ferrous metals. Reclamation does not include combustion of solid waste or preparation of a fuel from solid waste.

22. "Reclamation Site" means a location used for the processing or limited storage of reclaimed material, but not disposal site.
23. "Recyclable Material" means material which is accepted at public recycling facilities or for which recycling programs exist within or without the County, or for which local or distant markets exist.
24. "Recycling" means a method of reclamation.
25. "Refuse" means all commercially worthless, useless, discarded, rejected or refused material, except offal and animal and vegetable waste material; also, it includes scrap, waste materials, rubbish, noncommercial lamp black, waste acid, sludge, broken building and firebricks, discarded rubber tires, noncommercial sawdust, debris, trade waste, discarded articles and industrial waste. This term does include earth or dirt mixed with refuse but not commercially salable earth which is used as fill, road ballast, aggregate, etc. The incidental hauling of pure refuse as herein defined may be part of a regular garbage collection and disposal service.
26. "Self Hauler" means any person, firm, corporation or entity transporting their own solid waste for collection, or disposal, or deposition at a designated disposal facility, and who is not a commercial hauler.
27. "Solid Waste" including garbage means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, commercial waste, swill, sewage sludge, demolition and construction waste, abandoned vehicles or parts thereof, and recyclable materials.
28. "TCA" means the Torboy Collection Area.
29. "Torboy Collection Area" means all unincorporated areas of Ferry County as specified in Section 3 of this ordinance.
30. "Transfer Station" means a staffed, fixed collection and transportation and disposal facility, used by persons and route collection agents to deposit collected solid waste from off-site into a larger transfer vehicle for transport to a disposal site. This does not include a detachable container or solid waste drop box. Any transfer station currently in use by Ferry County or hereafter created by it is part of the Ferry County Solid Waste Disposal System.

SECTION 3. FLOW CONTROL SYSTEM

1. Under the authority provided by Chapter 36.58.040 RCW, this ordinance establishes a system for controlling the flow of all solid waste generated or disposed in unincorporated Ferry County. Additionally this system includes all solid waste

generated or collected in any other jurisdiction with which an interlocal agreement or resolution of solid waste plan adoption exists pursuant to Section 7 of this ordinance. The system of disposal shall be binding upon public and private entities and it is unlawful to dispose of solid waste at a disposal facility or in a manner not authorized or encompassed in the system established herein, except as specifically exempted in Section 5 of this ordinance.

2. Collection areas are hereby established by this ordinance and may be amended or created by the Board by resolution.
 - a. The Torboy Collection Area ("TCA") is a geographically and jurisdictionally distinct region defined as all unincorporated areas of Ferry County within the area bounded to the north and west by the Ferry County boundary line, to the east by the topographic crest of the Kettle Range, and the south by the northern boundary of the Colville Confederated Tribes reservation.
 - b. Specifications for collection areas may apply to incorporated areas and other jurisdictions if and when interlocal cooperation agreements for the control of solid waste have been duly executed with the County.
3. Designated disposal sites are hereby established by this ordinance and may be amended by the Board by resolution.
 - a. Torboy Transfer Station is the only designated disposal site for solid waste from the TCA.
 - b. Solid waste generated or collected outside the TCA must be disposed at public disposal facilities permitted by the local governing authority and by the State of Washington, except for specific exemptions in Section 5 of this ordinance.
 - c. Future collection areas may be established by the Board by resolution.
4. Unless otherwise permitted by state law, authorized in writing by the Board, or exempt by virtue of this ordinance, it shall be unlawful for any collecting agent, commercial hauler, self hauler or other person, firm, corporation or other entity to deliver or deposit any solid waste generated and/or collected within a collection area except at designated disposal sites. At this time the Board authorizes solid waste generated or collected in the Orient/Boyd's area can be hauled outside of the TCA. However, this will be reviewed on an annual basis by the Board to see if it is still viable and then this section of the ordinance can be amended.
5. Nothing in this ordinance shall prohibit a single family residence or single family farm from disposal of agricultural waste, demolition waste, household waste, or inert waste resulting from his own activities onto or under the surface of ground owned or leased by him, but such action must comply with all applicable statutes, ordinances or regulation.
6. Nothing in this ordinance shall be construed to limit household composting and recycling activities unless other ordinance, laws or regulations are violated.

SECTION 4. SOLID WASTE DISPOSAL FACILITIES

1. The Health District shall enforce conditions and regulations and require permits for all solid waste disposal in (the unincorporated areas of) the County.
2. No solid waste disposal site or disposal facilities shall be maintained, established, substantially altered, expanded, or improved until the county, city, or other person operating such site has obtained a permit from the Health District pursuant to the provisions of Chapter 70.95 RCW.
3. All owners of land within Ferry County must remove solid waste from their land for disposal in an approved facility, except landowners may elect to dispose of solid waste on their land as allowed in Section 5 of this ordinance.
4. The Health District may require an owner or operator of any public or private disposal facility to furnish evidence of compliance with all other federal, state, and local laws and ordinances, including, but not limited to, the Tri-County Health District, Washington State Department of Ecology, United States Environmental Protection Agency and any other jurisdictional entities as the Health District may determine. Such evidence may include, but is not limited to, an opinion of counsel and engineer's certificate.
5. The County may acquire by purchase, lease contract with private parties or other necessary means, disposal facilities which are needed for disposal of solid waste.

SECTION 5. EXEMPT OPERATIONS

1. Any solid waste disposal facility not exempted in this ordinance must be established, maintained, managed and/or operated in compliance with all other requirements of local, state or federal health and environmental rules or regulations. Any exception allowed in this ordinance shall comply with requirements of other laws, ordinances or regulations.
2. The following solid waste disposal operations or facilities are exempted from obtaining a permit to be established, maintained, managed or operated:
 - a. Household recycling and /or composting activities.
 - b. Disposal of solid waste generated by a household or single family farm, produced incidental to routine household activities, onto or under the surface of the ground owned or leased by that family or household, provided:

- i. Sites are fenced or otherwise protected by natural barriers to prevent unauthorized entry by the general public and to prevent access by large animal scavengers.
 - ii. A monthly soil cover is placed to allow on visible solid waste.
- c. Corrective actions at a disposal sited or facility performed by the state and/or in conjunction with the United States Environmental Protection Agency to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), the Model Toxics Control Act or corrective actions taken by others to comply with a state and/or federal cleanup order provided that:
- i. The action results in an overall improvement of the environmental impact of the site.
 - ii. The action does not require or result in additional waste being delivered to the facility or increase the amount of waste or contamination present at the facility.
 - iii. The facility standards of WAC 173-351 are met.
 - iv. The Health District is informed of the actions to be taken and is given the opportunity to review and comment upon the proposed corrective action plans.

SECTION 6. RECLAMATION

1. Nothing in this ordinance shall be construed to prohibit or inhibit household recycling and/or composting activities or reclamation of solid waste at reclamation sites. Unrecovered residues from reclamation operations shall be considered solid waste.

SECTION 7. INTERLOCAL OPERATIONS

1. The County shall provide written notification to all affected jurisdictions within 30 days after the adoption of this ordinance. If and when collection area boundaries are amended, or new collection areas created, the same time limits as described in this Section shall apply from the time of such amendment or creation.
2. For a period of 60 days after receipt of written notification from the County of this ordinance, all affected jurisdictions in the Torboy Collections Area and any other collection areas defined in this ordinance or specified by resolution shall be allowed to use without prejudice designated disposal sites for solid waste generated and collected in said jurisdiction, provided other conditions contained herein are met.
3. Within 90 days following the receipt of written notification of this ordinance from the County, governing bodies of affected jurisdictions in the TCA and any other collection areas defined in this ordinance or specified by resolution shall enter into or maintain interlocal agreements with the County to utilize designated disposal sites and comply with the

conditions contained therein and herein, or shall be prohibited from disposing solid waste at any disposal facility owned or operated by the County until or unless specifically authorized by the Board.

4. These interlocal agreements shall provide for jurisdictions to designate by resolution the County disposal system for disposal of solid waste generated within their legal limits as specified in the interlocal agreement and shall grant to the County the authority to designate specific facilities for disposal. Nothing in these contracts shall prevent any jurisdiction from implementing programs to achieve maximum recycling and/or composting of waste.
5. Nothing in this ordinance shall be construed to modify in any way any interlocal agreements between the County and the incorporated municipalities and jurisdictions within the County existing when this ordinance is adopted.

SECTION 8. PUBLIC NUISANCE

1. Any solid waste disposal site hereafter established, altered, expanded, improved, operated or maintained in violation of any of the provisions of this ordinance shall be, and the same is hereby declared to be, unlawful and a public nuisance.
2. Any violation of Section 5 is hereby declared to be a public nuisance.
3. The prosecuting attorney may take such steps or commence such legal or equitable actions as are necessary to abate such nuisances and to restrain and enjoin further unlawful acts. This section shall not limit or restrict any other power or authority authorized by law.

SECTION 9. PENALTIES

1. Any person, firm, corporation or entity which violates or refuses to or fails to comply with any of the provisions of this ordinance or regulations promulgated hereunder or who files or supplies any false, incomplete or inaccurate information in conjunction with administration and enforcement of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by imprisonment in the County jail for a maximum term fixed by the court of not more than 90 days or by fine in the amount fixed by the court of not less than \$500 but not more than \$1,000, or both such imprisonment and fine.
2. In lieu of imprisonment and/or fine, the court may substitute, on basis equivalent to imprisonment and/or fine, community service activities providing that such activities involve cleanup of illegal dump sites, picking up litter, participation in environmental education activities, tree planting, water quality protection activities, implementing stream protection practices, or any combination thereof, or any such community service the court may deem appropriate.
3. Nothing herein contained shall be construed to exempt an offender from any other suit, prosecution or penalty provided by law.

SECTION 10. EFFECTIVE DATE

This ordinance shall become effective immediately. The Board shall act promptly to amend or adopt any new solid waste disposal site regulations necessary to comply with this ordinance. Until such regulations are adopted the prior operating rules and regulations of the county relating to the matters covered by this ordinance shall remain in effect subject to such emergency rules and regulations as the Board may deem necessary.

SECTION 11. SEVERABILITY

If any diction, subsection, sentence, clause or phrase of this Ordinance is, for any reason, found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

PASSED this 5th day of May, 2008.

**BOARD OF COUNTY COMMISSIONERS
OF FERRY COUNTY, WASHINGTON**



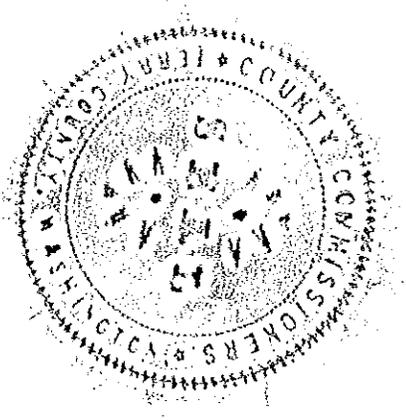
RONALD "JOE" BOND, Chairman



BRAD L. MILLER, Vice Chairman



MIKE L. BLANKENSHIP, Member



ATTEST:



Debbie Bechtol
Clerk of the Board

for