

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 1-99

) IN THE MATTER OF AMENDING CHAPTER 9  
) OF LANE CODE TO ADD PROVISIONS FOR  
) A SOLID WASTE SYSTEM BENEFIT FEE,  
) REMOVE CRIMINAL PENALTIES AND ADOPTING  
) A SEVERABILITY CLAUSE  
) (L.C. 9.005 – 9.070, 9.995)

**PASSED**

The Board of County Commissioners of Lane County ordains as follows:

Chapter 9 of Lane Code is hereby amended by removing and substituting the following pages:

**REMOVE THESE PAGES**

9.005 – 9.005 to  
9.035 – 9.095  
i.e. 9-1 to 9-3  
(a total of three pages)

9.990(1) – 9.995  
i.e. 9-59  
(a total of one page)

**INSERT THESE PAGES**

9.005 – 9.005 to  
9.067 – 9.095  
i.e. 9-1 to 9-3  
(a total of seven pages)

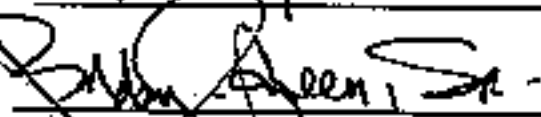
9.990 – 9.990  
i.e. 9-59  
(a total of one page)

Said pages are attached hereto and incorporated herein by reference. The purpose of these substitutions is to amend Lane Code Chapter 9 to add provisions for a solid waste system benefit fee and remove criminal penalties. (LC 9.005 – 9.070, 9.995). Any fees established under the provisions of this ordinance shall not become effective or be collected until at least 90 days after the enactment of this ordinance.

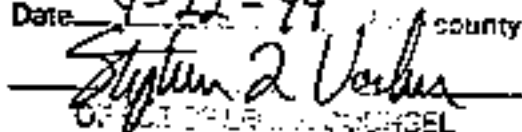
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by the court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

While not part of this Ordinance, findings included in the attached Exhibit "A" and incorporated hereby through reference are adopted in support of this decision.

Enacted this 26<sup>th</sup> day of May, 1999.

  
\_\_\_\_\_  
Chair, Lane County Board of  
Commissioners

  
\_\_\_\_\_  
Recording Secretary for this  
Meeting of the Board

ADDITIONAL FORM  
Date 4-22-99 county  
  
\_\_\_\_\_  
CLERK

## Chapter 9

ENVIRONMENT AND HEALTHSolid Waste Regulations

9.005 Definitions. For the purpose of this Chapter, the following words and phrases shall mean:

Disposal Site. A location used for the disposal or handling of solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, incinerators for solid waste delivered by the public or by a solid waste collection service, and composting plants; but the term does not include a Material Recovery Facility, a facility subject to the permit requirements of ORS 468B.050 or a landfill site which is used by the owner or person in control of the premises to only dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a solid waste collection service.

Division. The Waste Management Division of the Lane County Department of Public Works.

Generator. A person who produces municipal solid waste in Lane County or pays for municipal solid waste collection or disposal services on their behalf or on behalf of another person who produces municipal solid waste in Lane County.

Health Officer. The Health Officer appointed by the Board, or his/her duly authorized representative.

Hauler. A person engaged in the business of collecting, transporting or disposing of municipal solid waste generated within Lane County.

Manager. The Manager of the Waste Management Division of the Lane County Department of Public Works, or the Manager's duly authorized representative.

Material Recovery Facility. A facility permitted by the State of Oregon to accept non-source separated commercial waste for the purpose of extracting the recyclable fraction thereof.

Municipal Solid Waste. All Domestic Solid Waste delivered to any permitted Incinerator, Transfer Station or Municipal Solid Waste Landfill, as those terms are defined in OAR 340-093-0030, excluding:

- a) Waste containing more than one percent asbestos by weight.

- b) Inert wastes used as landfill cover material as defined in OAR 340-093-0030.
- c) Material delivered to a permitted construction and demolition landfill as defined in OAR 340-93-0030.
- d) Infectious wastes as defined in OAR 340-93-0030
- e) Hazardous waste exempted from regulation under 40 CFR 261.4 (b)(1) and 40 CFR 261.5, when managed as hazardous waste.

Person. As defined in Chapter 1.

Putrescible Solid Waste. Organic material that can decompose and then give rise to foul smelling and offensive products, and/or attract vectors such as flies, rats, etc.

Refuse. Rubbish, trash, garbage, vegetable and animal waste, ashes, waste household articles, and other materials ordinarily and customarily hauled off and dumped for promoting health and cleanliness.

Salvage. The practice of retrieving reclaimable materials, such as paper, metal, bottles, rags or other objects, from solid waste which has been deposited in a disposal site for the purpose of sale or other use.

Self-hauler. A person who transports municipal solid waste produced in Lane County by that person.

Solid Waste. All putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, sewage sludge, septic tank and cess-pool pumpings or other sludge, commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, dead animals and other wastes, but the term does not include:

(a) Environmentally hazardous wastes as defined by local, state and/or federal regulatory agencies.

(b) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

(c) Materials which have been source separated from solid waste as part of an organized program for recycling.

9.010 Purpose and Policy. The provisions of LC 9.015 to 9.115 are adopted for the purposes and policies of:

(a) Protecting the health, safety and welfare of the people of the County;

(b) Providing for safe and sanitary accumulation, storage, collection, transportation, disposal and recycling of solid waste;

(c) Prohibiting and providing for abatement of accumulation of solid waste on public and private property in such a manner so as to create a public nuisance, a hazard to health, or a condition of unsightliness.

ited by constitutional or statutory authority, the fees will be within the authority of the county. Establishment of the Solid Waste System Benefit Fee by this ordinance is not limited by any authority of the Charter. Solid Waste System Benefit Fees to fund waste reduction and recycling services, special and household hazardous waste services and the user convenience/transfer station system are a matter of county concern to the same extent as those services are a matter of county concern.

In addition to the general authority of the Charter and Oregon statutes,<sup>2</sup> specific authority over solid waste management in the unincorporated areas of the county appears in ORS chapter 459. A county may enter into agreements to carry out the responsibilities in the provisions of ORS 459.005 to 459.105, 459.205 to 459.385 and 459A.005 to 459A.085.<sup>3</sup> Further express authority is stated as follows:

"With respect to areas outside of cities, a board of county commissioners may, by ordinance or by regulation or order adopted pursuant to an ordinance or regulation:

\* \* \* \* \*

"(e) Regulate solid waste management."<sup>4</sup>

In addition to the express authority to regulate solid waste management, the statutory scheme for statewide recycling efforts establishes the county as one of the primary responsible parties.<sup>5</sup> While much of the recycling effort focuses on providing customers with an "opportunity to recycle", the requirements of reporting, tracking and meeting targets for recycling set forth in the statutes rest with the county. The county is the designated wasteshed in the statutory provisions that describe the recovery goals and establish the obligations of local counties and cities to achieve those goals.

Finally, the county has adopted a solid waste management plan that provides additional policy underpinnings for the Solid Waste System Benefit Fee. The Solid Waste Management Plan Update 79-80 ("SW Plan") contains several objectives that support a single broad goal. That goal reads as follows:

"Lane County's Solid Waste Management Program should provide leadership in the systematic control of the generation, storage, collection, transport, separation, reuse, recycling, recovery and disposal (of solid waste) on a Countywide basis. This should be done in a manner that assures minimum impact on the environment and promotes maximum recovery of resources." SW Plan 3.

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<sup>2</sup> ORS 203.035.

<sup>3</sup> ORS 459.065.

<sup>4</sup> ORS 459.085(1).

<sup>5</sup> ORS 459A.010; 459.050.

Two of the Objectives that support the broad goal are relevant to the proposed Solid Waste System Benefit Fee ordinance. Those objectives are:

Objective #4: "Establish and maintain an equitable system of long-range financial support for the Solid Waste Management Program."

Objective #6: "Maintain flexibility in planning and development."

Funding for solid waste management by Lane County has historically included user fees reasonably related to the cost of providing those services to all users of the solid waste system in the county. SW Plan 26. Modifying the user fee system of financial support by establishing a Solid Waste System Benefit Fee ordinance is consistent with "maintaining flexibility in development" and "maintaining long-range financial support" for the system. The Solid Waste System Benefit Fee ordinance also provides the element of equanimity in that all generators of waste will share in the funding of services that benefit all County residents regardless of where they dispose of the wastes.

Fees for the system-wide costs of solid waste management in Lane County will be collected from the users of the services. The proposed ordinance requires those fees be reasonably related to the costs of the services made available to the users. The fees are for the specific solid waste management system services available to users and are not imposed upon property or upon a property owner as a direct consequence of ownership of property. Consequently, the fees should not be considered a property tax.<sup>6</sup> In addition, the fees are not used to subsidize the operation of the landfills and artificially lower the disposal fees.

### Conclusion

Lane County has authority under the Charter and Oregon statutes to establish a Solid Waste System Benefit Fee to fund the cost of services other than landfill costs that benefit users of the solid waste management system provided by the county, provided the fees reflect the costs of providing the services available to the users and the funds collected from the fee are not used to subsidize current and future landfill operations.

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<sup>6</sup> ORS 305.583(8); *Roseburg School District v. City of Roseburg*, 316 Or 374, 851 P2d 595 (1993).

9.005

Lane Code

9.005

Chapter 9

ENVIRONMENT AND HEALTH

Solid Waste Regulations

9.005 Definitions. For the purpose of this Chapter, the following words and phrases shall mean:

Disposal Site. A location used for the disposal or handling of solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, ~~salvage sites,~~ incinerators for solid waste delivered by the public or by a solid waste collection service, and composting plants; but the term does not include a Material Recovery Facility, a facility subject to the permit requirements of ORS 468B.050 or a landfill site which is used by the owner or person in control of the premises to only dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a solid waste collection service.

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Generator. A person who produces municipal solid waste in Lane County or pays for municipal solid waste collection or disposal services on their behalf or on behalf of another person who produces municipal solid waste in Lane County.

Health Officer. The Health Officer appointed by the Board, or his/her duly authorized representative.

Hauler. A person engaged in the business of collecting, transporting or disposing of municipal solid waste generated within Lane County.

Manager. The Manager of the Waste Management Division of the Lane County Department of Public Works, or the Manager's duly authorized representative.

Material Recovery Facility. A facility permitted by the State of Oregon to accept non-source separated commercial waste for the purpose of extracting the recyclable fraction thereof.

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- a) Waste containing more than one percent asbestos by weight.

- b) Inert wastes used as landfill cover material as defined in OAR 340-093-0030.
- c) Material delivered to a permitted construction and demolition landfill as defined in OAR 340-93-0030.
- d) Infectious wastes as defined in OAR 340-93-0030
- e) Hazardous waste exempted from regulation under 40 CFR 261.4 (b)(1) and 40 CFR 261.5, when managed as hazardous waste.

Person. As defined in Chapter 1.

Putrescible Solid Waste. Organic material that can decompose and then give rise to foul smelling and offensive products, and/or attract vectors such as flies, rats, etc.

Refuse. Rubbish, trash, garbage, vegetable and animal waste, ashes, waste household articles, and other materials ordinarily and customarily hauled off and dumped for promoting health and cleanliness.

Salvage. The practice of retrieving reclaimable materials, such as paper, metal, bottles, rags or other objects, from solid waste which has been deposited in a disposal site for the purpose of sale or other use.

Self-hauler. A person who transports municipal solid waste produced in Lane County by that person.

Solid Waste. All putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, sewage sludge, septic tank and cess-pool pumpings or other sludge, commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, dead animals and other wastes, but the term does not include:

9.005 ~~\_\_\_\_\_ Lane Code \_\_\_\_\_~~ 9.030

(a) Environmentally hazardous wastes as defined by local, state and/or federal regulatory agencies.

(b) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

(c) Materials which have been source separated from solid waste as part of an organized program for recycling.

9.010 Purpose and Policy. The provisions of LC 9.015 to 9.115 are adopted for the purposes and policies of:

(a) Protecting the health, safety and welfare of the people of the County;

(b) Providing for safe and sanitary accumulation, storage, collection, transportation, disposal and recycling of solid waste;

(c) Prohibiting and providing for abatement of accumulation of solid waste on public and private property in such a manner so as to create a public nuisance, a hazard to health, or a condition of unsightliness.

~~(c) Prohibiting and providing for abatement of accumulation of solid waste on public and private property in such a manner so as to create a public nuisance, a hazard to health, or a condition of unsightliness.~~

(d) Providing for coordinated solid waste collection and disposal program with cities within the County.

(e) Requiring recycling services and related requirements in compliance with ORS 459A.010.

9.015 Adoption of Solid Waste Regulations. Pursuant to Oregon Laws and the Home Rule authority of the County, LC 9.030 to 9.115 are adopted for the purpose of solid waste regulation and management.

9.030 Disposal - Public Place; Private Property.

(1) No person shall place, throw, deposit or otherwise dispose of solid waste in any public place, public road, public park, or on any private property, or in the waters within the County, except as provided in LC 9.030(2), at the official disposal sites provided by the County or at other disposal sites which have been approved by all appropriate regulatory agencies.

(2) No owner or occupant of private property shall deposit, accumulate, or permit to be deposited or accumulated, putrescible solid waste upon such private property for a period in excess of seven days. Storage of putrescible solid waste shall be in public or private litter receptacles, approved by the Health Officer, or in garbage cans or in securely tied bundles.

9.035 Solid Waste Hauling Regulations. No person shall transport or carry solid waste in or on a motor vehicle or trailer, upon a public road in the County, unless such solid waste is either:

(a) completely covered on all sides and on the top and bottom thereof and such cover is either a part of or securely fastened to the body of such motor vehicle or trailer; or

(b) securely tied to the body of such motor vehicle or trailer so that no piece, article, item or part of such solid waste is not fastened to the body of such motor vehicle or trailer.

(c) Contained in the body of the transport vehicle in such a way as not to cause any part of the hauled solid waste to be deposited upon any roadway or driveway in the County.

9.040 Solid Waste System Benefit Fee. A Solid Waste System Benefit Fee shall be imposed for solid waste management services provided by the Division. The fee shall be assessed against the weight of any municipal solid waste which is generated inside Lane County, and the fee shall be collected by the Division from the hauler of such waste. The Solid Waste System Benefit Fee is a user fee charged to all solid waste generators in Lane County for the provision of services including, but not limited to, waste reduction and recycling services, special and household hazardous waste services and the user convenience/transfer station system. The Solid Waste System Benefit Fee shall not exceed the estimated reasonable costs for the County's provision of these services.

9.043 Compliance. No person shall collect, transport or dispose of municipal solid waste generated in the County except in full compliance with LC 9.030 to 9.115. This provision shall not prevent the transportation of municipal solid waste through the County.

9.045 Amount of Fee. The Board shall establish or adjust the amount of the Solid Waste System Benefit Fee by Order, and the Order shall state the effective date of the established or adjusted Solid Waste System Benefit Fee which shall not be less than 30 days after adoption of the Order.

9.050 Collection and Remittance.

(1) For Municipal Solid Waste collected within Lane County and disposed of at county facilities, the Solid Waste System Benefit Fee will be collected at the disposal facility in the same manner as the disposal fees. For Municipal Solid Waste collected within Lane County and disposed of at non-county facilities, the hauler shall remit the appropriate Solid Waste System Benefit Fee to the County based on the number of tons collected within Lane County. Any Municipal Solid Waste collected outside of Lane County and disposed of at county facilities shall not be subject to the Solid Waste System Benefit Fee.

(2) Each hauler subject to Solid Waste System Benefit Fee remittance for wastes collected within Lane County and disposed of at non-County facilities shall remit such payment by the 25<sup>th</sup> day of the month for the preceding month's disposal quantities. The Manager may grant a variance from this 25<sup>th</sup> day of the month payment requirement due to hauler billing practices, if such a request is made in writing by a hauler.

(3) Each hauler subject to Solid Waste System Benefit Fee remittance shall incorporate in each billing to Lane County waste generators, the following clear and legible statement with the current fee figure included:

"This billing includes a \$ \_\_\_ per ton Lane County Solid Waste System Benefit Fee charged to all waste generators in Lane County for County-provided waste reduction and recycling, special and household hazardous waste and user convenience/ transfer station services."

9.053 Reports. Each hauler subject to Solid Waste System Benefit Fee payments shall complete a Solid Waste System Benefit Fee report in accordance with instructions and on forms provided by the Division. The Solid Waste System Benefit Fee report, accompanied by any required Solid Waste System Benefit Fee payments, shall be submitted by certified mail on or before the 25<sup>th</sup> day of the month for the preceding month's disposal quantities. The Solid Waste System Benefit Fee report may include, but not be limited to, total gross billings and receipts for all collection and disposal services performed within the County, the number of residential and non-residential generators within the hauler's service area, the number of tons collected within the service area and disposed of within and outside the County, and other such information as requested by the Division.

**9.055**      Calculation of Solid Waste System Benefit Fee. If the Manager determines, after review of the Solid Waste System Benefit Fee report or upon failure of a hauler to submit the Solid Waste System Benefit Fee report, that the hauler has not supplied appropriate information, the Manager may recalculate the hauler's Solid Waste System Benefit Fee in accordance with this subsection. If the Manager finds that the information supplied by the hauler is inaccurate, incomplete or understated, the Manager may, at his or her sole discretion, determine an appropriate amount for the Solid Waste System Benefit Fee due from the hauler. The Manager shall send the hauler a notice, by certified mail, setting forth the recalculated Solid Waste System Benefit Fee amount. The notice shall include a statement of the reasons why the Solid Waste System Benefit Fee has been recalculated. The Manager may base the recalculation on information in County records or on any data currently or previously supplied by the hauler. The written notice shall be deemed received by the hauler three (3) days after the date of mailing, and payment shall be due within ten (10) days of receipt unless appealed. Upon receipt of the notice, the hauler shall have seven (7) days in which to respond. The hauler may, within the seven day response period, request a meeting with the Manager to appeal the amount of the recalculated Solid Waste System Benefit Fee. The Manager shall issue and mail, by certified mail, a written decision to the hauler within three (3) days following such a meeting, and any fees due per the Manager's decision shall be payable within ten (10) days of the Manager's decision.

**9.057**      Self-haulers at Lane County Disposal Sites. A generator which hauls its own waste to a disposal site or facility operated by Lane County shall pay the Solid Waste System Benefit Fee at the time that disposal fees are paid. Self-haulers who pay disposal fees and the Solid Waste System Benefit Fee at the time of disposal shall not be required to submit the Solid Waste System Benefit Fee report.

**9.060**      Examination of Records. The Manager shall have the right to examine records, including access to computer records, maintained by a hauler. The term "records" shall include, but is not limited to, all accounts of a hauler. The Manager shall be allowed access at all reasonable times to inspect and copy, at reasonable cost all business records related to a hauler's collection, transportation and disposal of solid waste to the extent necessary to ensure that all fees required to be collected or paid have been remitted to the Division. Such records shall be maintained by the hauler for no less than six (6) years.

9.063 Confidential Character of Information Obtained. To the extent permitted by law, the manager or any person having an administrative or clerical duty under the provisions of LC 9.040 to 9.070 shall not disclose or make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any person required to file a Solid Waste System Benefit Fee report, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided that nothing in this subsection shall be construed to prevent:

(1) The disclosure to, or the examination of records and equipment by another Lane County official, employee or agent for collection of fees for the sole purpose of administering or enforcing any provision of this subchapter, or collecting fees imposed hereunder.

(2) The disclosure, after the filing of a written request to that effect, to the fee payer, himself or herself, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any paid fees, any unpaid fees or amount of fees required to be collected, or interest and penalties, further provided, however, that the County Counsel approves each such disclosure and that the Manager may refuse to make any disclosure referred to in this paragraph when in his or her opinion the public interest would suffer thereby.

(3) The disclosure of general statistics regarding fees collected or business done in the County or portion thereof.

(4) Necessary disclosures in connection with appeals or forced collections as provided in LC 9.040 to 9.070.

9.065 Collection Actions. Exercise of any remedy by the County under LC 9.040 to 9.070 does not preclude exercise of other remedies.

(1) If a hauler has failed to remit Solid Waste System Benefit Fees to the County in a timely manner, the County may use any available legal remedy to collect the overdue unpaid Solid Waste System Benefit Fee from the hauler.

(2) If a self-hauler fails to pay the Solid Waste System Benefit Fee to the County in a timely manner, the County may use any available legal remedy to collect the unpaid Solid Waste System Benefit Fee from the self-hauler.

9.067 Violations. Any person who hauls municipal solid waste and willfully or negligently fails to bill, fails to collect or fails to pay, or remit to the Division the Solid Waste System Benefit Fee commits a violation of LC 9.040 to 9.070. Violations of any requirements of LC 9.040 to 9.070 constitute a County Infraction.

~~LG 9.067 shall not preclude prosecution for any other violations, misdemeanors or felonies under Oregon law committed by such person while hauling municipal solid waste. The provisions of LG 9.040 to 9.070 are cumulative and are additional limitations upon all other laws and ordinances. The County may recover costs, including staff and other related costs, incurred to enforce compliance with the provisions of LG 9.040 to 9.070.~~

9.070 Injunctive relief. The County may institute appropriate actions or proceedings, including application for injunctive relief, action to compel performance or other appropriate actions to prevent, restrain, correct or abate any violation or threatened violation of LG 9.040 to 9.070.

9.090 Deposits Prohibited. Except under conditions specified by the Health Officer or his/her duly authorized representative, no person shall place, deposit or dump, or cause to be placed, deposited or dumped, into any disposal facility at any disposal site, any of the following materials:

- (a) Hot ashes or other burning material;
- (b) Sewage sludge, offal or the contents of septic tanks and pit privies;
- (c) Auto bodies or vehicle tires;
- (d) Animal carcasses; or
- (e) Explosives, carbides, chemicals, drugs and other materials considered to be dangerous.

9.095 Salvage and Other Orders by Health Officer.

(1) No person shall salvage at disposal sites unless specifically authorized in writing by the Health Officer.

(2) A person using Lane County disposal sites shall obey all orders of the Health Officer, Director and site attendant given for the purpose of carrying out this Chapter.

(d) Providing for coordinated solid waste collection and disposal program with cities within the County.

(e) Requiring recycling services and related requirements in compliance with ORS 459A.010.

9.015 Adoption of Solid Waste Regulations. Pursuant to Oregon Laws and the Home Rule authority of the County, LC 9.030 to 9.115 are adopted for the purpose of solid waste regulation and management.

9.030 Disposal - Public Place; Private Property.

(1) No person shall place, throw, deposit or otherwise dispose of solid waste in any public place, public road, public park, or on any private property, or in the waters within the County, except as provided in LC 9.030(2), at the official disposal sites provided by the County or at other disposal sites which have been approved by all appropriate regulatory agencies.

(2) No owner or occupant of private property shall deposit, accumulate, or permit to be deposited or accumulated, putrescible solid waste upon such private property for a period in excess of seven days. Storage of putrescible solid waste shall be in public or private litter receptacles, approved by the Health Officer, or in garbage cans or in securely tied bundles.

9.035 Solid Waste Hauling Regulations. No person shall transport or carry solid waste in or on a motor vehicle or trailer, upon a public road in the County, unless such solid waste is either:

(a) completely covered on all sides and on the top and bottom thereof and such cover is either a part of or securely fastened to the body of such motor vehicle or trailer; or

(b) securely tied to the body of such motor vehicle or trailer so that no piece, article, item or part of such solid waste is not fastened to the body of such motor vehicle or trailer.

(c) Contained in the body of the transport vehicle in such a way as not to cause any part of the hauled solid waste to be deposited upon any roadway or driveway in the County.

9.040 Solid Waste System Benefit Fee. A Solid Waste System Benefit Fee shall be imposed for solid waste management services provided by the Division. The fee shall be assessed against the weight of any municipal solid waste which is generated inside Lane County, and the fee shall be collected by the Division from the hauler of such waste. The Solid Waste System Benefit Fee is a user fee charged to all solid waste generators in Lane County for the provision of services including, but not limited to, waste reduction and recycling services, special and household hazardous waste services and the user convenience/transfer station system. The Solid Waste System Benefit Fee shall not exceed the estimated reasonable costs for the County's provision of these services.

~~REDLINING~~ indicates material being added  
~~STRIKEOUT~~ indicates material being deleted

LEGISLATIVE  
FORMAT

9.990(1)

Lane Code

9.9950(6)

Violations and Penalties

9.990 Violation.

(1) Violation of any provisions of this Chapter, except LC 9.745, LC 9.120 to 9.160 and those sections enumerated in LC 9.995, constitutes a Class A Infraction and shall be handled in accordance with LC Chapter 5. A violation of LC 9.745 constitutes a Class B Infraction.

(2) Any person may sign County Infraction summonses and complaints for violations of section 9.035.

(3) The Director of the Department of Public Works, or duly authorized representative, may sign County Infraction summonses and complaints for violations of LC 9.710 and 9.745, the Director of the Department of Community Health and Social Services, or duly authorized representative, may sign County Infraction summonses and complaints for violations of any other LC sections listed in LC 9.990(1), except LC 9.950. Subject to available resources, the Director of the Department of Public Safety for Lane County, or the Director's authorized representative, may sign County Infraction summonses and complaints for violation of LC 9.950.

(4) Each day in which a violation of sections 9.554, 9.558, 9.560, 9.564, 9.710 or 9.745 continues constitutes a separate infraction.

(5) At the expiration of the period set by the County for correction of any violation of sections 9.310 to 9.370, the County shall again inspect the dwelling. If the violation has not been corrected, the violation shall constitute a County Infraction.

(6) Violation of LC 9.135 shall be subject to the procedures of LC 9.145 to LC 9.150 and the penalty as specified in LC 9.155.

~~9.995 Penalty. Violation of sections 9.020, 9.030, 9.040, 9.045, 9.050, 9.060, 9.080, 9.085, 9.090, 9.095, 9.100, 9.115 or any of the rules or regulations published under the authority of Lane Code 9.110 shall be deemed to be a misdemeanor and shall be punishable on conviction by a fine of not more than \$500 or by imprisonment in the County jail for not more than six months, or both.~~

20-72; 10.13.72

9-59

WP I/co/00021/T

5-73; 8.4.73

WP I/ct/99003/T

9-73; 8.15.73

10-74; 8.23.74

7-75; 5.16.75

7-84; 7.27.84

9-90; 1.18.91

3-96; 11.1.96

6-98; 12.2.98

9.043 Compliance. No person shall collect, transport or dispose of municipal solid waste generated in the County except in full compliance with LC 9.030 to 9.115. This provision shall not prevent the transportation of municipal solid waste through the County.

9.045 Amount of Fee. The Board shall establish or adjust the amount of the Solid Waste System Benefit Fee by Order, and the Order shall state the effective date of the established or adjusted Solid Waste System Benefit Fee which shall not be less than 30 days after adoption of the Order.

9.050 Collection and Remittance.

(1) For Municipal Solid Waste collected within Lane County and disposed of at county facilities, the Solid Waste System Benefit Fee will be collected at the disposal facility in the same manner as the disposal fees. For Municipal Solid Waste collected within Lane County and disposed of at non-county facilities, the hauler shall remit the appropriate Solid Waste System Benefit Fee to the County based on the number of tons collected within Lane County. Any Municipal Solid Waste collected outside of Lane County and disposed of at county facilities shall not be subject to the Solid Waste System Benefit Fee.

(2) Each hauler subject to Solid Waste System Benefit Fee remittance for wastes collected within Lane County and disposed of at non-County facilities shall remit such payment by the 25<sup>th</sup> day of the month for the preceding month's disposal quantities. The Manager may grant a variance from this 25<sup>th</sup> day of the month payment requirement due to hauler billing practices, if such a request is made in writing by a hauler.

(3) Each hauler subject to Solid Waste System Benefit Fee remittance shall incorporate in each billing to Lane County waste generators, the following clear and legible statement with the current fee figure included:

"This billing includes a \$ \_\_\_ per ton Lane County Solid Waste System Benefit Fee charged to all waste generators in Lane County for County-provided waste reduction and recycling, special and household hazardous waste and user convenience/ transfer station services."

9.053 Reports. Each hauler subject to Solid Waste System Benefit Fee payments shall complete a Solid Waste System Benefit Fee report in accordance with instructions and on forms provided by the Division. The Solid Waste System Benefit Fee report, accompanied by any required Solid Waste System Benefit Fee payments, shall be submitted by certified mail on or before the 25th day of the month for the preceding month's disposal quantities. The Solid Waste System Benefit Fee report may include, but not be limited to, total gross billings and receipts for all collection and disposal services performed within the County, the number of residential and non-residential generators within the hauler's service area, the number of tons collected within the service area and disposed of within and outside the County, and other such information as requested by the Division.

9.055        Calculation of Solid Waste System Benefit Fee. If the Manager determines, after review of the Solid Waste System Benefit Fee report, or upon failure of a hauler to submit the Solid Waste System Benefit Fee report, that the hauler has not supplied appropriate information, the Manager may recalculate the hauler's Solid Waste System Benefit Fee in accordance with this subsection. If the Manager finds that the information supplied by the hauler is inaccurate, incomplete or understated, the Manager may, at his or her sole discretion, determine an appropriate amount for the Solid Waste System Benefit Fee due from the hauler. The Manager shall send the hauler a notice, by certified mail, setting forth the recalculated Solid Waste System Benefit Fee amount. The notice shall include a statement of the reasons why the Solid Waste System Benefit Fee has been recalculated. The Manager may base the recalculation on information in County records or on any data currently or previously supplied by the hauler. The written notice shall be deemed received by the hauler three (3) days after the date of mailing, and payment shall be due within ten (10) days of receipt unless appealed. Upon receipt of the notice, the hauler shall have seven (7) days in which to respond. The hauler may, within the seven day response period, request a meeting with the Manager to appeal the amount of the recalculated Solid Waste System Benefit Fee. The Manager shall issue and mail, by certified mail, a written decision to the hauler within three (3) days following such a meeting, and any fees due per the Manager's decision shall be payable within ten (10) days of the Manager's decision.

9.057        Self-haulers at Lane County Disposal Sites. A generator which hauls its own waste to a disposal site or facility operated by Lane County shall pay the Solid Waste System Benefit Fee at the time that disposal fees are paid. Self-haulers who pay disposal fees and the Solid Waste System Benefit Fee at the time of disposal shall not be required to submit the Solid Waste System Benefit Fee report.

9.060        Examination of Records. The Manager shall have the right to examine records, including access to computer records, maintained by a hauler. The term "record" shall include, but is not limited to, all accounts of a hauler. The Manager shall be allowed access at all reasonable times to inspect and copy at reasonable cost all business records related to a hauler's collection, transportation and disposal of solid waste to the extent necessary to ensure that all fees required to be collected or paid have been remitted to the Division. Such records shall be maintained by the hauler for no less than six (6) years.

9.063 Confidential Character of Information Obtained. To the extent permitted by law, the Manager or any person having an administrative or clerical duty under the provisions of LC 9.040 to 9.070 shall not disclose or make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any person required to file a Solid Waste System Benefit Fee report, or any other person visited or examined in the discharge of official duty, or the amount or source of income profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided that nothing in this subsection shall be construed to prevent:

(1) The disclosure to, or the examination of records and equipment by another Lane County official, employee or agent for collection of fees for the sole purpose of administering or enforcing any provision of this subchapter; or collecting fees imposed hereunder.

(2) The disclosure, after the filing of a written request to that effect, to the fee payer himself or herself, receivers, trustees, executors, administrators assignees, and guarantors, if directly interested, of information as to any paid fees, any unpaid fees or amount of fees required to be collected, or interest and penalties, further provided, however, that the County Counsel approves each such disclosure and that the Manager may refuse to make any disclosure referred to in this paragraph when in his or her opinion the public interest would suffer thereby.

(3) The disclosure of general statistics regarding fees collected or business done in the County or portion thereof.

(4) Necessary disclosures in connection with appeals or forced collections as provided in LC 9.040 to 9.070.

9.065 Collection Actions: Exercise of any remedy by the County under LC 9.040 to 9.070 does not preclude exercise of other remedies.

(1) If a hauler has failed to remit Solid Waste System Benefit Fees to the County in a timely manner, the County may use any available legal remedy to collect the overdue, unpaid Solid Waste System Benefit Fee from the hauler.

(2) If a self-hauler fails to pay the Solid Waste System Benefit Fee to the County in a timely manner, the County may use any available legal remedy to collect the unpaid Solid Waste System Benefit Fee from the self-hauler.

9.067 Violations. Any person who hauls municipal solid waste and willfully or negligently fails to bill, fails to collect or fails to pay or remit to the Division the Solid Waste System Benefit Fee commits a violation of LC 9.040 to 9.070. Violations of any requirements of LC 9.040 to 9.070 constitute a County Infraction.

LC 9.067 shall not preclude prosecution for any other violations, misdemeanors or felonies under Oregon law committed by such person while hauling municipal solid waste. The provisions of LC 9.040 to 9.070 are cumulative and are additional limitations upon all other laws and ordinances. The County may recover costs, including staff and other related costs, incurred to enforce compliance with the provisions of LC 9.040 to 9.070.

9.070 Injunctive relief. The County may institute appropriate actions or proceedings, including application for injunctive relief, action to compel performance or other appropriate actions to prevent, restrain, correct or abate any violation or threatened violation of LC 9.040 to 9.070.

9.090 Deposits Prohibited. Except under conditions specified by the Health Officer or his/her duly authorized representative, no person shall place, deposit or dump, or cause to be placed, deposited or dumped, into any disposal facility at any disposal site, any of the following materials:

- (a) Hot ashes or other burning material;
- (b) Sewage sludge, offal or the contents of septic tanks and pit privies;
- (c) Auto bodies or vehicle tires;
- (d) Animal carcasses; or
- (e) Explosives, carbides, chemicals, drugs and other materials considered to be dangerous.

9.095 Salvage and Other Orders by Health Officer.

(1) No person shall salvage at disposal sites unless specifically authorized in writing by the Health Officer.

(2) A person using Lane County disposal sites shall obey all orders of the Health Officer, Director and site attendant given for the purpose of carrying out this Chapter.

Violations and Penalties9.990 Violation.

(1) Violation of any provisions of this Chapter, except LC 9.745, LC 9.120 to 9.160 and those sections enumerated in LC 9.995, constitutes a Class A Infraction and shall be handled in accordance with LC Chapter 5. A violation of LC 9.745 constitutes a Class B Infraction.

(2) Any person may sign County Infraction summonses and complaints for violations of section 9.035.

(3) The Director of the Department of Public Works, or duly authorized representative, may sign County Infraction summonses and complaints for violations of LC 9.710 and 9.745, the Director of the Department of Community Health and Social Services, or duly authorized representative, may sign County Infraction summonses and complaints for violations of any other LC sections listed in LC 9.990(1), except LC 9.950. Subject to available resources, the Director of the Department of Public Safety for Lane County, or the Director's authorized representative, may sign County Infraction summonses and complaints for violation of LC 9.950.

(4) Each day in which a violation of sections 9.554, 9.558, 9.560, 9.564, 9.710 or 9.745 continues constitutes a separate infraction.

(5) At the expiration of the period set by the County for correction of any violation of sections 9.310 to 9.370, the County shall again inspect the dwelling. If the violation has not been corrected, the violation shall constitute a County Infraction.

(6) Violation of LC 9.135 shall be subject to the procedures of LC 9.145 to LC 9.150 and the penalty as specified in LC 9.155.

20-72; 10.13.72  
5-73; 8.4.73  
9-73; 8.15.73  
10-74; 8.23.74  
7-75; 5.16.75  
7-84; 7.27.84  
9-90; 1.18.91  
3-96; 11.1.96  
6-98; 12.2.98

9-59

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## Solid Waste System Benefit Fee Findings

### Introduction

The Waste Management Division of the Lane County Department of Public Works has been studying the current funding mechanisms that support the Lane County solid waste management system. Currently, most of the revenue for the services provided to all users of the solid waste management system derive from the tipping fees charged for disposal at sites operated by Lane County. Services that benefit all users of the solid waste management system include recycling and waste reduction, special and household hazardous waste management, operation of one landfill and the operation of rural/urban transfer system. Other system-wide services that are part of comprehensive solid waste management in Lane County include funding the closure and post-closure costs of the landfill and maintaining a prudent reserve.

According to Waste Management Division studies, funding the costs of county services that are not directly related to disposal site operations is important to continue the current solid waste management system in Lane County. Differentiating between the direct costs of landfill operation and the costs of other parts of the solid waste management system will more equitably distribute the system-wide costs among the users of the system regardless of the disposal site chosen by those users. Disposal fees reflecting the cost of landfill operations and related capital costs, including the closure and post-closure costs associated with the current and future operations at the landfill, should generate the necessary revenue to maintain those operations in the future. Collecting a system benefit fee from all generators of solid waste in Lane County will help fund the waste reduction/recycling programs, special and hazardous waste collection efforts, educational programs and operations provided for user convenience, such as the rural transfer sites.<sup>1</sup> Establishing system benefit fees and collecting them regardless of where haulers finally dispose of collected waste will leave the disposal site decision to the collector and customers.

The proposed system benefit fee contemplated by this ordinance would be implemented by specific Board action establishing the fee in the Lane Manual. A fee adopted by the Board will be collected from the waste generators and remitted to the county by the hauler of the solid waste. The fee will not include the cost of services not available for use by all solid waste generators. The disposal fees collected at Lane County facilities will only be used for costs of the Short Mountain landfill operation and capital costs related to the landfill operations. Those disposal fees will also provide revenue for the current and future landfill

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<sup>1</sup> The level of service provided in each of these areas may also be the subject of Board discussion. Regardless of the outcome of that discussion, funding those services through a system benefit fee would assure revenue for the system-wide benefits provided to solid waste generators regardless of the choice of disposal sites.

closure and post-closure requirements. A solid waste system benefit fee will focus on the various parts of the solid waste management system to allocate costs among the various users of the system in the manner considered most appropriate by the Board.

### **Findings and Conclusions**

The Solid Waste System Benefit Fee is a user fee charged to all solid waste generators in Lane County for the provision of services including, but not limited to, waste reduction and recycling services, special and household hazardous waste services and the user convenience/transfer station system. The Solid Waste System Benefit Fee actually imposed shall not exceed the estimated reasonable costs for the County's provision of these services. Adoption of the Solid Waste System Benefit Fee occurs pursuant to the authority of the Lane County Board of Commissioners found in the Lane County Home Rule Charter and Oregon statutes.

The Lane County Home Rule Charter ("Charter") sets forth the broad expression of authority, as follows:

"Section 5. GENERAL GRANT OF POWERS. Except as this charter provides to the contrary, the county shall have authority over matters of county concern to the full extent granted or allowed by the law of the United States or of the state of Oregon, as fully as if each power comprised in that general authority were specifically granted by this charter, including power to levy and collect taxes, to create and incur indebtedness, and to exercise any and all other powers conferred upon counties and their governing bodies by the statutes of the state.

"Section 6. CONSTRUCTION OF POWERS. In this charter no mention of a particular power or enumeration of similar powers shall be construed to be exclusive or to restrict the authority that the county would have if the particular power were not mentioned or the similar powers not enumerated. The charter shall be liberally construed, to the end that, within the limits imposed by the charter and by the law of the United States and of the state, the county have all powers necessary or convenient for the conduct of its affairs, including all powers that counties may assume under the statutes of the state and under the provisions of the state constitution concerning county home rule."

The Charter provides extensive authority "over matters of county concern" limited only "by the charter and by the law of the United States and of the state". The charter authority includes the authority to establish fees for users of the solid waste management system in Lane County. Ultimately, the Board must determine the services to be provided, the need for and amount of the fees and how those fees are to be allocated among the available services. As long as the fees are reasonably related to the cost of services available to users and are not lim-