

**PEND OREILLE COUNTY
NEWPORT, WASHINGTON**

ORDINANCE 2021- 01

AN ORDINANCE RELATING TO THE DISPOSAL OF SOLID WASTE, DELIVERED TO
THE PEND OREILLE COUNTY SOLID WASTE SYSTEM, PROHIBITING THE DISPOSAL
OF SUCH SOLID WASTE EXCEPT AT A FACILITY CONSISTENT WITH THE
COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN AND APPROVED BY THE
PEND OREILLE COUNTY BOARD OF COUNTY COMMISSIONERS

WHEREAS, PEND OREILLE COUNTY ("County") is a political subdivision duly organized and existing under the Constitution and laws of Washington State. In accordance with chapter 70A.205 RCW, the County adopted and maintains a Comprehensive Solid Waste Management Plan ("SWMP") to, in part, regulate the County's system of solid waste handling ("system") for the unincorporated areas of the County and incorporated areas of the cities participating in the SWMP ("participating cities"). The SWMP, together with implementing laws and regulations, establishes policies and procedures for managing and funding solid waste handling within the system; and

WHEREAS, Chapter 36.58 RCW authorizes the County to designate a disposal site or sites for all solid waste generated and collected in the unincorporated areas of the County. Participating cities have authorized the County to designate a disposal site or sites for the disposal of all solid waste generated and collected within the incorporated areas of the participating cities. This Ordinance and the SWMP apply to the unincorporated areas of the County and the incorporated areas of the participating cities ("system areas"); and

WHEREAS, The County regulates solid waste handling at the disposal sites of the system, including the South County Transfer Station, Central County Transfer Station, North County Transfer Station and such other sites designated by the County ("system disposal sites"); and

WHEREAS, the integrity of the system and the system disposal sites, and their effective administration, are essential to reduce waste, control pollution and protect and promote the public health, safety and general welfare of the County. Consistent with the SWMP and state law, it is therefore necessary to designate the system disposal sites as the exclusive disposal sites for all solid waste generated and collected within the system areas; and

SECTION 1. RECITALS AND FINDINGS. The above recitals and findings are incorporated in this Ordinance by reference.

SECTION 2. DEFINITIONS. For the purpose of this Ordinance the following definitions apply:

1. "Board" means the Pend Oreille County Board of County Commissioners.
2. "Board of Health" means the Northeast Tri-County Health District Board of Health regularly constituted under RCW 70.46.020.
3. "County transfer stations" means the Pend Oreille County transfer stations located at 9494 Deer Valley Rd, Newport WA; 661 Jared Rd. Usk, WA; or 351 Ione Pit Rd. Ione, WA., and such other transfer station facilities designated from time to time by the County or in the SWMP as facilities for receipt of solid waste from off-site from persons or route collection vehicles for consolidation into transfer vehicles, vessels or containers for transport to a solid waste handling facility.
4. "Department" means the Pend Oreille County Public Works Department.
5. "Director" means the Director of the Public Works Department, or his/her designee.
6. "Commercial hauler" means any person, firm or corporation collecting solid waste for hire or other consideration.
7. "Commercial user" means any person not engaged in the business of solid waste handling.
8. "Construction, Demolition and Land clearing waste" means large volume commingled waste generated from construction, demolition, and land clearing.
9. "Controlled solid waste" means all solid waste generated and/or collected within the unincorporated areas of Pend Oreille County or within any other jurisdiction with which an interlocal agreement exists.
10. "Dangerous wastes" means any solid waste designated as dangerous waste by the Department of Ecology, under chapter 173-303 WAC, Dangerous waste regulations.
11. "Disposal" means the discharge, deposit, injection, dumping, leaking, or placing of any solid waste into or on any land or water.
12. "Ecology" means the Washington Department of Ecology.
13. "Hazardous Waste Management" means the management and handling of certain material under Chapter 70A.300 RCW. "Hazardous waste" means the following, as set forth in RCW 70A.300.010, as now or hereafter amended:
 - i. "Hazardous household substances" means those substances under RCW 70A.415.010 identified by Ecology as hazardous household substances in the guidelines developed by Ecology.

- ii. "Hazardous substance" or "hazardous material" means those substances or materials identified as such under regulations adopted pursuant to the federal hazardous materials transportation act, the toxic substances control act, the resource recovery and conservation act, the comprehensive environmental response compensation and liability act, the federal insecticide, fungicide, and rodenticide act, the occupational safety and health act hazardous communications standards, and the state hazardous waste act.
 - iii. "Moderate risk waste" means (a) any waste that exhibits any of the properties of dangerous waste but is exempt from regulation under chapter 70A.300 RCW solely because the waste is generated in quantities below the threshold for regulation and (b) any household wastes that are generated from the disposal of substances identified by Ecology as hazardous household substances.
- 14. "Municipal solid waste (MSW)" means a subset of solid waste which includes unsegregated garbage, refuse and similar solid waste material discarded from residential, commercial, institutional and industrial sources and community activities, including residue after recyclables have been separated. Solid waste that has been segregated by source and characteristic may qualify for management as a non-MSW solid waste, at a facility designed and operated to address the waste's characteristics and potential environmental impacts. The term MSW does not include:
 - i. Dangerous wastes other than wastes excluded from the requirements of chapter 173-303 WAC, Dangerous waste regulations, in WAC 173-303-071 such as household hazardous wastes;
 - ii. Any solid waste, including contaminated soil and debris, resulting from response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601), chapter 70A.305 RCW, Hazardous waste cleanup—Model Toxics Control Act, chapter 173-340 WAC, Model Toxics Control Act—Cleanup, or a remedial action taken under those statutes and rules; nor
 - iii. Mixed or segregated recyclable material that has been source-separated from garbage, refuse and similar solid waste. The residual from source-separated recyclable materials at facilities outside of the County is not subject to regulation by the County; the residual from source-separated recyclable materials at facilities within the County is MSW subject to this ordinance.
- 15. "Participating city" means any city that authorizes the County to prepare its solid waste management plan for inclusion in the SWMP, including any city that may in

the future participate in preparing a joint city-County plan for solid waste management, and any city that participates in the system. City also means incorporated city and town.

16. "Person" means an individual, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation or any other entity whatsoever, including any affiliate that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such person.
17. "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration. Recycling does not include collection, compaction, repacking and sorting for the purpose of transport.
18. "SWMP" means the comprehensive solid waste management plan adopted and amended from time to time by the County and approved by the Washington State Department of Ecology pursuant to chapter 70A.205 RCW. The SWMP also includes the Hazardous Waste Management Plan adopted by the County under chapters 70A.205 and 70A.300 RCW.
19. "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to MSW, garbage, rubbish, ashes, commercial waste, industrial wastes, demolition and construction wastes, inert wastes, abandoned vehicles or parts thereof, recyclable materials, and unrecovered residues from reclamation operations. See WAC 173-350-021 to determine if material is a solid waste.
20. "Solid waste handling" means the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste. See WAC 173-350-100 for expanded definition.
21. "System" means the comprehensive County-wide system or systems of solid waste handling, and any successor solid waste system or systems, established under chapter 36.58 RCW and other state laws, which includes without limitation the operation and maintenance of the system disposal sites under this ordinance, the regulation of solid waste handling facilities under the SWMP and the rules and regulations of the Board of Health, and the designation of system disposal sites for, and the method or methods of transfer and disposal of, all solid waste generated and collected in the system areas, as established, designated, identified or otherwise provided by the County.
22. "System areas" means all unincorporated areas of the County, all incorporated areas of the participating cities and, subject to separate agreement with the County, the areas of any other local government entities.

23. "System disposal sites" means the County transfer stations, the County drop box facilities and such other sites designated from time to time by the County or the SWMP as disposal sites of the system.

24. "Transfer Station" means a permanent, fixed, supplemental collection and transportation facility, used by persons and route collection vehicles to deposit collected solid waste from off-site into a larger transfer vehicle or container for transport to a permanent disposal site and may include recycling activities.

Any references in this Section or Ordinance to a provision of state law in the Revised Code of Washington (RCW) or rules in the Washington Administrative Code (WAC) include subsequent amendments.

SECTION 3. PURPOSE AND INTENT.

1. The system is established to prevent land, air and water pollution and to conserve the natural, economic and energy resources of the County. This ordinance regulates the operation and maintenance of the system disposal sites and designates them as the exclusive disposal sites of the system for solid waste generated and collected in the system areas.

2. The County hereby exercises its right to control the disposal of all solid waste generated and collected in the system areas and to permit any other person to use system disposal sites when authorized by this ordinance or pursuant to state law.

3. In accordance with the SWMP goals and policies on funding and finance, the County has adopted user rates and fees to operate and maintain the system disposal sites as efficiently and effectively as possible and to, in part, achieve the purposes of this ordinance.

4. The penalties and enforcement provisions of this ordinance are necessary to enforce flow control within the County to ensure effective administration of the system.

SECTION 4. SYSTEM OF DISPOSAL.

Pursuant to RCW 36.58.040, the system disposal sites are designated the exclusive disposal sites of the system for all solid waste generated and collected in the system areas. The system is binding upon all persons, and it is unlawful to dispose of solid waste at a disposal site or in a manner not authorized or encompassed in the system.

SECTION 5. OPERATION OF SYSTEM.

1. The system disposal sites shall be available to accept solid waste generated and collected in system areas consistent with federal and state law, County ordinance and the Board of Health.

2. Pursuant to interlocal agreement between the Board and the governing body of any other county, and subject to the provisions of this ordinance and the SWMP, such other county may join the system areas and participate in the system.

3. Pursuant to contract or other agreement between the County and any person that is not a county, system disposal sites may be available to accept solid waste from such person consistent with federal and state law, County ordinance and the SWMP.

4. This ordinance does not modify in any way any interlocal agreements between the County and the participating cities existing as of the date of this Ordinance.

SECTION 6. RECYCLING AND RECLAMATION.

This ordinance does not prohibit or inhibit the recycling or reclamation of solid waste at sites operating in compliance with the rules and regulations of the state of Washington, the Board of Health and consistent with the SWMP.

SECTION 7. UNLAWFUL REMOVAL OF SOLID WASTE FROM COUNTY.

Except as permitted by state law or this ordinance, it is unlawful for any person to transport, transfer, deliver or deposit any solid waste generated and collected in the system areas to or at a disposal site or other facility that is not a designated system disposal site by the County.

SECTION 8. UNLAWFUL DISPOSAL OF SOLID WASTE.

Except as permitted by state law or this ordinance, it is unlawful for any person to dispose of controlled solid waste except at a disposal site and in a manner authorized by Pend Oreille County

SECTION 9. PENALTIES.

1. Any violations of this Ordinance shall be subject to and may be prosecuted. Provided, residential self-haul of solid waste within or outside of the County is not subject to penalties set forth in this ordinance. For purposes of this Section 9, "residential self-haul" means the transport and disposal of solid waste by individual County residents and not waste handling for fee or other consideration.

2. Any person, firm or corporation which violates or refuses to or fails to comply with any of the provisions of this ordinance or regulations promulgated hereunder and orders issued pursuant hereto shall be deemed guilty of a misdemeanor and shall be punished as provided by State law.

3. This section does not exempt an offender from any other suit, prosecution or penalty provided by law, including but not limited to RCW 9.91.130 (prohibition of solid waste disposal in charitable donation boxes), RCW46.61.645 and 70A.200.060 (prohibitions on littering and illegal dumping).

SECTION 10. ADMINISTRATION AND ENFORCEMENT.

1. It is the duty of the Director to enforce the provisions of this Ordinance and the solid waste laws and regulations of the County.
2. Notwithstanding any other provision of this Ordinance, the Board may authorize and direct the prosecuting attorney to take all actions, including without limitation the filing of a lawsuit in any appropriate legal forum, to enforce the provisions of this ordinance.

SECTION 11. SEVERABILITY. If any section, subsection, sentence, clause, phrase or other portion of this Ordinance or its application to any person is, for any reason, declared invalid, illegal or unconstitutional in whole or in any part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

SECTION 12. EFFECTIVE DATE. This Ordinance is effective from and after its adoption.

PASSED by the Board of Pend Oreille County Commissioners meeting in session at Newport, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the 13 day of July 2021.

3 AYE; 0 NAY; 0 ABSTAIN; 0 ABSENT

**BOARD OF COUNTY COMMISSIONERS
PEND OREILLE COUNTY, WASHINGTON**

ATTEST

Crystal Zieske
Crystal Zieske, Clerk of the Board

Mike Manus
Mike Manus, Chair

Brian Smiley
Brian Smiley, Vice Chair

John Gentle
John Gentle, Commissioner

APPROVED AS TO FORM

Dolly Hunt
Dolly Hunt, Prosecuting Attorney