BEFORE THE BOARD OF COUNTY COMMISSIONERS LEWIS COUNTY, WASHINGTON

ORDINANCE NO. #1123

AN ORDINANCE RELATING TO THE DISPOSAL OF SOLID WASTE GENERATED AND COLLECTED WITHIN, OR TRANSPORTED FOR PURPOSES OF DISPOSAL INTO, UNINCORPORATED AREAS OF LEWIS COUNTY; DESIGNATING DISPOSAL SITES; PROHIBITING THE DISPOSAL OF SOLID WASTE EXCEPT AT SITES CONSISTENT WITH THE COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN; ESTABLISHING REQUIREMENTS FOR THE DESIGNATION OF DISPOSAL SITES AND FOR AGREEMENTS REGARDING OPERATION AND RATES OF SUCH SITES; MAKING VIOLATIONS OF THIS ORDINANCE UNLAWFUL AND PRESCRIBING PENALTIES; AND PROVIDING FOR OTHER MATTERS APPROPRIATELY RELATING THERETO.

WHEREAS, Lewis County ("County") is charged by Chapter 70.95 RCW with the responsibility for adopting a comprehensive solid waste management plan to control the disposal of solid waste generated and collected within its boundaries;

WHEREAS, RCW 36.58.040 authorizes the Lewis County Board of Commissioners ("Board") to provide by ordinance for the establishment of a system of solid waste disposal for the unincorporated area of the County, to designate disposal sites, and to enter agreements with operators of disposal sites relating to utilization of and rates for solid waste handling systems, plants, sites and other facilities;

WHEREAS, RCW 36.58.040 and RCW 36.58.045 authorize the County to fund its expenses incurred in connection with RCW 70.95;

WHEREAS, the County and all incorporated cities and towns therein, (the "Cities"), through interlocal agreement, have adopted a comprehensive solid waste management plan (the "Plan") which was approved by the State Department of Ecology on May 15, 1991;

WHEREAS, the County has continued to study the problems relating to the disposal of solid waste generated and collected in all areas of the County and as a result of such study finds that:

A. There exist new and ever-mounting problems involving disposal of garbage, refuse, and solid waste materials resulting from domestic, agricultural, commercial, and industrial activities;

B. Aggressive programs for waste reduction and recycling do not eliminate the need for a disposal site to handle wastes that are not recyclable;

C. Improper handling and disposal of the solid waste that remains after waste reduction and recycling efforts threaten public health and safety, pollute our land, air and water resources, blight our countryside, adversely affect land values, damage the overall quality of our environment and expose the County to potential liability;

D. Current County solid waste revenues may not be adequate to support the costs of the County's future solid waste management activities, which include but are not limited to implementation of this Ordinance and of other

activities called for by the Plan or necessary to protect the public health, safety and welfare; compliance with administration and planning requirements imposed by RCW 70.95.090; and closure and remediation of the Centralia Landfill;

E. Rates charged at disposal facilities should be fair, just and reasonable.

WHEREAS, RCW Chapter 70.95 and RCW 70.95.090 require solid waste management plans to describe existing solid waste handling facilities, the estimated long-range need for such facilities, and a program for orderly development of such facilities in a manner consistent with the Plan;

WHEREAS, to operate a reliable, efficient waste disposal system requires designated disposal sites to be used by all public or private collectors for substantially all solid waste generated within the County;

WHEREAS, pursuant to an interlocal agreement (the "Interlocal Agreement") the Cities have agreed to be included in a solid waste disposal district to be formed by the County and have agreed to direct the flow of waste generated and collected in incorporated areas to disposal sites designated by the County; and

WHEREAS, the County has agreed by the Interlocal Agreement to form a solid waste disposal district pursuant to Chapter 36.58 RCW;

WHEREAS, solid waste disposal problems make it necessary to control disposal sites and to reduce the waste stream that requires disposal by waste reduction, recycling, or other methods;,

NOW, THEREFORE, BE IT ORDAINED by the Lewis County Board of Commissioners as follows:

SECTION 1 - DEFINITIONS.

Unless otherwise expressly provided in this Ordinance, the definitions found in RCW 70.95.030 and WAC 173-304-100 shall apply in interpreting this Ordinance.

A. "Approval" or "Approved" by the Board or authorized designee means an approval given after all other necessary permitting processes have been completed, except the Health District permit required by RCW 70.95.170-.190, but no special duty to any permittee or third party is created by the terms of this Ordinance or any Approval.

B. "Board" means the Lewis County Board of Commissioners.

C. "City" means any city or town that has entered the Interlocal Agreement (collectively, the "Cities").

D. "County" means Lewis County.

E. "County Solid Waste" means solid waste generated and collected in, or transported for purpose of disposal into, the unincorporated areas of the County.

F. "Director" means the Director of the Lewis County Department of Public Services, or the alternate public official designated by the County to carry out the duties of the Director pursuant to this Ordinance.

G. "Disposal Site" means a facility where any final treatment, utilization, processing, transfer or deposit of County Solid Waste occurs, and for which a permit is required pursuant to RCW 70.95.170-.190. For purposes of this

ordinance, a transfer station or a drop box shall be deemed a Disposal Site.

H. "District" means the Solid Waste Disposal District No. 1 of Lewis County to be formed pursuant to the Interlocal Agreement and County ordinance.

I. "Executive Committee" means the executive advisory committee formed pursuant to the Interlocal Agreement.

J. A "Hauler" is a solid waste collection company that has either obtained a certificate of convenience and necessity pursuant to Chapter 81.77 RCW to serve any area of the County, or that has been granted a franchise to provide garbage and refuse collection service within any City.

K. "Health District" means the Lewis County Health District or any successor agency charged with responsibility for issuing or renewing permits for solid waste disposal sites pursuant to RCW 70.95.170-.190.

L. "Interlocal Agreement" means the "Interlocal Agreement Regarding Lewis County Solid Waste Disposal District and Flow Control" entered into, or to be entered into, by the County, the District and the Cities, and all amendments to such agreement.

M. "Operator" means any Person with whom the District or the County contracts for the design, construction, ownership or operation of any Disposal Site or other solid waste handling facility.

N. "Plan" means the Lewis County Comprehensive Solid Waste Management Plan, as it now exists and may be amended from time to time.

O. "Separated Waste" means the solid waste that remains after the removal of all recyclable material that is practicable to remove.

P. "SWAC" means the Lewis County Solid Waste Advisory Committee.

Q. "Source Separated" means the separating of different kinds of solid waste at the place where the waste is generated.

R. "System" means the system of solid waste handling established by the County, including by not limited to strategies and programs for solid waste handling owned, operated or provided for by the County, either directly or by contract with the District or Operators, and all administrative activities related thereto. The term "System" includes the District, all Disposal Sites and other facilities designated by the County for the disposal of solid waste, and the solid waste handling programs and facilities provided by the County and the District.

SECTION 2 - PURPOSE OF ORDINANCE.

A. The purpose of this Ordinance is to establish a comprehensive County-wide system that is adequate to handle all solid waste generated in incorporated and unincorporated areas of the County, and that will protect public health and safety; control the flow of County Solid Waste; prevent land, air, and water pollution; conserve and protect the natural resources and environment of the County; limit the potential liability of the County for improper disposal; and provide for disposal charges that are fair, just and reasonable. These purposes require that all County Solid Waste, except for waste exempted pursuant to Section 8 of this Ordinance, be directed to certain Disposal Sites.

B. To carry out this purpose, this Ordinance is adopted to regulate the establishment, operation and rates of all Disposal Sites that are located in the

County and the disposal of County Solid Waste at Disposal Sites in and outside of the County.

C. The County, pursuant to powers granted by law by this Ordinance exercises its authority to control disposal of all solid waste generated and collected within unincorporated areas of the County; to negotiate contracts with parties that operate Disposal Sites; and to permit Cities to use County-owned Disposal Sites, and other Disposal Sites upon terms to be negotiated between the County and the owner or operator of such other Sites.

SECTION 3 - SYSTEM OF SOLID WASTE HANDLING.

A. Pursuant to RCW 36.58.040, this Ordinance establishes a system of solid waste handling for all solid waste generated and collected in, or transported for disposal purposes into, incorporated or unincorporated areas of the County consistent with the Plan and Interlocal Agreement.

B. The System and the requirements of this Ordinance shall be binding upon all persons subject to its provisions within the County.

C. Unless otherwise permitted by law, it is unlawful for any Person to dispose of County Solid Waste at a Disposal Site, or in a manner, not authorized pursuant to this Ordinance.

D. Except for Disposal Sites designated in an emergency pursuant to Section 3(E) or exempt under Section 8, the Disposal Sites set forth in this Section, and any additional Disposal Sites found to meet the requirements of Sections 7 and 9, are hereby designated as the sole Disposal Sites which are authorized to receive, and to which Haulers and all other Persons are authorized to deliver, County Solid Waste for disposal. Designations are expressly subject to:

(a) receipt and continuing possession of and compliance with all permits and governmental approvals necessary for the operation of the Site;
(b) the Site's capability to dispose of County Solid Waste by the means identified in its designation;
(c) in the case of a private operator, the execution and delivery of an agreement between the County and the operator as described in Section 7.

Designated Disposal Sites include:
1. City of Centralia Landfill (landfilling).
2. Drop boxes designated from time to time by the Public Services Director for specific categories and volumes of Solid Waste.
3. Any Disposal Site designated in accordance with Sections 5, 7 and 9 hereof, as applicable.

E. Upon a finding by the Director that it is necessary for the immediate preservation of the public health and safety that additional or alternate Disposal Sites be designated on an emergency basis and upon notification of the Chairman of the Board of such emergency, the Director may approve additional Disposal Sites for up to 60 days without action by the Board.

SECTION 4 - UNLAWFUL DISPOSAL OF SOLID WASTE.

It is unlawful for any Person to dump or deposit or permit the dumping or depositing of any solid waste onto or under the ground or into any waters within the unincorporated areas of the County except at a Disposal Site that has been designated pursuant to section 3 or exempted pursuant to section 8 of this

Ordinance, as amended from time to time; provided that nothing herein shall prohibit a Person from dumping or depositing solid waste resulting from his own activities onto or under the surface of the ground owned or leased by him when such action complies with all other applicable laws.

SECTION 5. ACQUISITION OF DISPOSAL SITES BY COUNTY AND DISTRICT.

By action of the Board (in its capacity as the legislative body of the County or as the governing body of the District), the County or District may acquire by purchase, lease, or otherwise, or may contract with other parties for the use of, Disposal Sites that are adequate for disposal of solid waste generated in, or transported into, incorporated and unincorporated areas of the County. Such Disposal Sites shall be consistent with the Plan, and with all federal, state, and local requirements. Upon acquisition or effectiveness of a contract, such Sites shall become part of the System of solid waste handling established by this Ordinance.

SECTION 6. INTERLOCAL OPERATIONS.

Solid waste disposal sites owned, operated, or controlled in whole or in part by the County or District, and designated by the County for the receipt of County Solid Waste, shall be available to accept solid wastes generated and collected in the Cities, and solid waste generated in other counties; provided that the governing bodies of such jurisdictions enter into and maintain interlocal agreements with the County and comply with the conditions contained therein and herein. Nothing in this Ordinance shall be construed to modify any existing interlocal agreements among the County, the District and the Cities. The Interlocal Agreement satisfies the requirements of this Section with respect to Cities that enact flow control ordinances pursuant to that Interlocal Agreement.

SECTION 7. ESTABLISHMENT AND OPERATION OF DISPOSAL SITES; AGREEMENTS REGARDING OPERATION AND RATES.

A. Except for those sites exempt under Section 8, it is unlawful for any Person to establish, alter, expand, improve, or hereafter operate or maintain a Disposal Site that is located in or that accepts solid waste generated in or transported into the unincorporated areas of the County unless:

1. The proposed Site, facilities, and proposed method of operation comply with this Ordinance and with any regulations promulgated by the Health District;

2. The proposed Site and proposed method of operation have been designated pursuant to Section 3 or 9 of this Ordinance, and all permits required by law have been obtained; and

3. The Operator of the proposed Site, if owned by any Person other than the County, has entered an agreement with the County specifying the rates to be charged for disposal or processing of County Solid Waste at the Disposal Site and such other terms deemed necessary by the Director to protect the public health, safety, and welfare, and for other public purposes; provided, that the County shall not be obligated to enter into any such agreement with such a Person.

B. For purposes of establishing and adjusting rates pursuant to this Section, the operator of any Disposal Site shall furnish to the Director information

concerning actual and anticipated revenues, expenses, liabilities, debt amortization, equipment purchases and other data deemed pertinent by the Director.

C. Each agreement between an owner or operator and the County or District shall provide that if the Disposal Site fails to comply in any material respect with the terms of the agreement or with this Ordinance, the Disposal Site is subject to loss of designation.

D. The Director shall require the operator of each designated Disposal Site to furnish such evidence as the Director deems necessary to verify that the Disposal Site complies with this Ordinance and shall report annually to the Executive Committee and to the Board regarding such compliance.

SECTION 8. EXEMPT OPERATIONS.

A. The following solid waste processing and disposal activities and facilities related thereto are hereby exempted from this Ordinance:

1. Wrecking automobiles and parts thereof and related storage and handling facilities which possess all necessary governmental permits and approvals.

2. Depositing, pursuant to all necessary governmental permits and approvals, fewer than 2,000 cubic yards of soil, rock, tree stumps, gravel, broken concrete, broken asphalt, and similar inert wastes onto the surface of the ground whereby such depositing is to be temporary, in nature, and graded or otherwise worked to fill an existing depression or low area of ground.

3. Depositing agricultural solid waste onto or under the surface of the ground when said waste is being utilized primarily for fertilizer or a soil conditioner, as long as depositing such waste does not otherwise violate the law.

4. Depositing sewage or sewage sludge onto or under the surface of the ground at a disposal site which possesses all necessary governmental permits and approvals for that purpose.

5. Depositing "hazardous waste" as defined by RCW 70.105.010(15) onto or under the surface of the ground at a disposal site which possesses all necessary governmental permits and approvals for that purpose.

6. Depositing solid waste by an industrial solid waste generator into its own private landfill which is accessory to the industry, is not open to Haulers or the public, which possesses all necessary governmental permits and approvals for that purpose, and which is included in the Plan.

7. Facilities for the acceptance and marketing of Source-Separated recyclable materials including drop-off and buy-back centers, contract recycling services, and associated processing facilities.

8. Handling and marketing of Source-Separated recyclable materials.

9. Composting of yardwaste at facilities that accept and market Source-Separated yardwaste materials.

10. On-site composting of organic materials generated on-site.

11. Processing woodwaste at facilities that accept Source-Separated woodwaste materials.

12. Handling and processing "infectious waste" within the meaning of Lewis County Ordinance No. 1112 as that ordinance may be amended from time to time.

13. Depositing County Solid Waste by a Hauler at a Disposal Site outside the County, provided that (1) such waste is collected on a route that originates, terminates, and lies primarily outside the County; (2) such Disposal Site possesses all necessary governmental permits and approvals; and (3) the Hauler has obtained the Director's approval for such disposal.

B. The exemptions established by this Section shall have no effect on the requirements of other local, state and federal laws.

SECTION 9. APPLICATION FOR DISPOSAL SITE DESIGNATION.

A. Applications for designation of a solid waste disposal site owned or operated by any Person other than the County that is located within the unincorporated areas of the County, within incorporated areas of the County that have adopted a flow control ordinance pursuant to the Interlocal Agreement, or that is located outside the County, shall be on forms prescribed by the Director and shall contain a description of the proposed and existing facilities and operations at the site, plans and specifications for any new or additional facilities to be constructed, and such other information as the Director deems necessary.

B. Upon receipt of an application for designation, the Director shall transmit one copy of the application to the Health District.

C. Within 90 days of receipt of the application, the Director shall investigate the application as necessary to determine whether the proposed site complies with the Plan and this Ordinance, and whether designation would promote the public interest. Upon completion of the investigation, the Director shall submit the application, together with his recommendation as to whether the proposed site should be designated, first to the SWAC for its review and recommendation, then to the Executive Committee for its review and recommendation, and finally to the Board for action. Approval of a Disposal Site designation shall be by County ordinance. Notwithstanding the foregoing, drop boxes may be designated by the Director, after review and recommendation by the SWAC and Executive Committee, and Board action shall not be required for such designation.

D. If the Board designates the proposed site as a Disposal Site, an agreement shall be negotiated and executed as provided in Section 7.A.1-.3 of this Ordinance.

SECTION 10. SUSPENSION OR REVOCATION.

In the event that any designated Disposal Site substantially fails to comply with this Ordinance, the Plan, other applicable laws, conditions imposed in conjunction with the issuance of any permit, or an agreement executed pursuant to this Ordinance, or for any other lawful reason, the Director may suspend or revoke the designation of such Site. Any operator aggrieved by a suspension or revocation may appeal such action to the Lewis County Commissioners.

SECTION 11. ABANDONED SITES.

It is unlawful for any Person to fail to close when legally required or to abandon any Disposal Site. Any designated Disposal Site which is abandoned by

its owner or operator shall be closed by such owner or operator in compliance with applicable local, state and federal laws.

SECTION 12 - ENFORCEMENT.

Appropriate County officers and employees are authorized to take all lawful actions reasonably available to enforce in a timely manner the provisions of this Ordinance against any Person violating those provisions, including, but not limited to, bringing a civil and/or criminal action against that Person and providing testimony and cooperation in the prosecution of that action; barring that Person from use of a Disposal Site; requesting that the Washington Utilities and Transportation Commission revoke that Person's certificate; and seeking equitable relief.

SECTION 13 - PENALTIES.

Any Person who knowingly fails to comply with section 4, 7 or 11 of this Ordinance or who files or supplies any false, incomplete, or inaccurate information in connection with any application 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 more than $1,000, or both such imprisonment and fine. Each day of continuing violation or noncompliance shall be deemed a separate offense. Nothing contained in this section shall be construed to exempt an offender from any other suit, prosecution, or penalty provided in another Lewis County Ordinance or otherwise provided by law.

Any Person who fails to comply with section 4, 7, or 11 of this Ordinance shall also be subject to a civil penalty not to exceed $1000.00 for each violation. Each violation or day of noncompliance shall constitute a separate violation. Any such civil penalty imposed pursuant to this section shall be subject to review by the Board.

SECTION 14 - PUBLIC NUISANCE.

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. Any violation of Sections 3(C), 4, 7, and 11 is hereby declared to be a public nuisance. The Prosecuting Attorney, at the direction of the Board, may take steps 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 15 - SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this chapter 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.

SECTION 16 - REPEALER.

Sections 9.02 and 9.03 of County Ordinance No. 1046 are hereby repealed.

SECTION 17 - EFFECTIVE DATE.

This ordinance shall be effective thirty (30) days after its adoption. Notwithstanding the foregoing, the provisions of this ordinance regarding the District shall not be effective unless and until the District has been formed by the County.

DONE IN REGULAR SESSION this 10th day of August, 1992.

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

Joanne Schwartz
Chairman

Jay Winter
Member

Warren Dahlin
Member

ATTEST:

Betty Elder Deputy Auditor
County Auditor & Ex Officio Clerk
of the Board of County Commissioners
for Gary E. Jandell

APPROVED AS TO FORM:

NELSON E. HUNT, PROSECUTING ATTORNEY

By: Jean E. Meyer, Deputy
for Eugene Butler, Chief Civil Deputy

This ordinance becomes effective on August 10, 1992.

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