

| CLEARANCES               | Initial | Date     | Date Received in Council Office | Agenda Date | Assigned To:   |
|--------------------------|---------|----------|---------------------------------|-------------|----------------|
| Originator: Public Works |         | 01/02/96 |                                 |             | County Council |
| Division Head:           |         |          |                                 |             |                |
| Dept. Head:              |         |          |                                 |             |                |
| Prosecutor:              |         |          |                                 |             |                |
| Purchasing/Budget:       |         |          |                                 |             |                |
| Executive:               |         |          |                                 |             |                |

**SUBJECT:**

Resolution Clarifying Intent of Flow Control Ordinance

**ATTACHMENTS:**

Draft Resolution No. 6, submitted to Council 1/2/96

**SUMMARY STATEMENT:** *Please complete sections of box as appropriate & explain the item below.*

|                            |  |                 |
|----------------------------|--|-----------------|
| Related County Contract #: | Should clerk schedule a hearing? (Y/N) N | Requested Date: |
|----------------------------|--|-----------------|

Resolution clarifying the intent of Whatcom County Code 8.15, Solid Waste Disposal Sites, otherwise known as the Flow Control Ordinance, and establishing solid waste handling performance standards for mixed solid wastes.

**CLERK'S RECOMMENDED MOTION (for final action):**

I move to approve....

**COUNCIL ACTION TAKEN:**

<sup>1996-14-</sup>  
1/2/96: Amended and approved 5-2, Brenner and Henderson opposed. Res. 96-002

**Related File Numbers:**

**Ordinance or Resolution Number (this item only):**

Res. 96-002

SPONSORED BY: Consent

PROPOSED BY: Consent

INTRODUCTION DATE: 1/2/96

1 RESOLUTION NO. 96-002

2 CLARIFYING THE INTENT OF  
3 WHATCOM COUNTY CODE 8.15, SOLID WASTE DISPOSAL SITES,  
4 OTHERWISE KNOWN AS THE FLOW CONTROL ORDINANCE,  
5 AND ESTABLISHING SOLID WASTE HANDLING PERFORMANCE STANDARDS  
6 FOR MIXED SOLID WASTES

7 WHEREAS, the Whatcom County Code (WCC) Chapter 8.15, Solid Waste Disposal  
8 Sites, hereafter referred to as the Flow Control Ordinance, was adopted in June, 1991; and,

9 WHEREAS, in order to improve the County's ability to perform solid waste related  
10 administrative functions, it is necessary to clarify the intent of certain elements of the Flow  
11 Control Ordinance; and,

12 WHEREAS, it is necessary to recognize relevant solid waste handling performance  
13 standards for those disposal sites designated under the requirements of the Flow Control  
14 Ordinance that are appropriate for current industry conditions and which are consistent with the  
15 purpose of the Flow Control Ordinance; and,

16 WHEREAS, for the sake of consistency, stability, and flexibility, it is deemed most  
17 advantageous to have the term of all disposal site agreements linked to the same cycle, and to  
18 have that cycle linked to regularly scheduled updates to the Comprehensive Solid Waste  
19 Management Plan; and,

20 WHEREAS, it is vital to the long term success of a solid waste management program,  
21 which engages the services of the private sector, to provide for trustworthy means of enforcing  
22 the Flow Control Ordinance, as clarified herein, for the benefit and protection of the public as  
23 well as to achieve fairness for competing disposal sites.

24 NOW, THEREFORE, BE IT RESOLVED that the following clarifying language and  
25 performance standards be utilized by administrative staff in preparing, negotiating, and enforcing  
26 disposal site agreements with all designated disposal sites:

1 A. The following is intended to supplement definition language contained in WCC  
2 8.15.020, Definitions, in order to provide clarity and performance standards:

3 Process - "Process" or "Processing" means an operation to convert a solid  
4 waste into a useful product or to prepare it for disposal (as stated in WAC  
5 173-304-100(62), Minimum Functional Standards).

6 Recyclable Materials - Includes , but is not limited to, papers, metals, and  
7 glass (70.95.030 RCW) and compostables (WCC 8.15.030 G.1&2).

8 Separated Waste - The term "practical to remove" contained within WCC  
9 8.15.030.G.2 is interpreted to mean the recovery of Recyclable Materials  
10 in accordance with the standard specified below with respect to Priority  
11 Levels 3 through 5.

12 Unseparated Waste - Unseparated Waste is the Solid Waste delivered to a  
13 designated Disposal Site, regardless of the amount of Recyclable Material  
14 recovery that has occurred prior to being delivered.

15 B. The following is intended to supplement language contained in WCC 8.15.030  
16 (G), System of Solid Waste Handling, Waste Handling Priority Levels, in order to  
17 provide clarity and performance standards:

18 General -

19 The Flow Control Ordinance requires delivery of County Solid Waste to  
20 the Disposal Site that has the technical capability and available capacity to  
21 Process or dispose of County Solid Waste utilizing the highest priority  
22 means available. Each designated Disposal Site's priority level technical  
23 capability and available capacity to Process and dispose of County Solid  
24 Waste at each priority level, together with the system's cumulative Solid  
25 Waste handling capacity at each priority level will be utilized by the  
26 County to enforce the provisions of the Flow Control Ordinance.

27 The required delivery of County solid Waste is intended to be to a waste  
28 handling priority level, not a specific Disposal Site.

1 Priority Level 1 - Recycling ... source separated recyclable materials, ...

2 In order to maintain designation status, all designated Disposal Sites shall  
3 provide recycling opportunities for receipt of Source Separated Recyclable  
4 Materials as well as implement activities that encourage the reduction of  
5 Solid Waste being received in its unseparated form.

6 WCC 8.15.070 exempts facilities that receive, process, and market Source  
7 Separated Recyclable Materials. Therefore, no Disposal Site shall be  
8 granted a Level 1 site designation for purposes of required delivery of  
9 County Solid Waste.

10 Priority Level 2 - Processing of recyclable materials, ...

11 In order to maintain a Priority Level 2 site designation, a Disposal Site  
12 shall Process the Unseparated County Solid Waste delivered to the  
13 Disposal Site and recover and recycle a minimum of 20% by weight and  
14 dispose of a maximum of 80% by weight of the total Unseparated County  
15 Solid Waste delivered to the site. Any technology or system that recovers  
16 and recycles at least 20% by weight of the Unseparated County Solid  
17 Waste delivered to the Disposal Site shall qualify as a Priority Level 2  
18 disposal site.

19 The minimum 20% recovery / maximum 80% disposal requirement  
20 applies to the sum of all Unseparated County Solid Wastes received at the  
21 Disposal Site, excluding the following materials:

- 22 1. Source Separated Recyclable Materials.
- 23 2. Recyclable Materials which are removed at the Disposal  
24 Site by the Person delivering the Solid Waste.
- 25 3. Any Solid Waste delivered to the Disposal Site and  
26 processed in a manner that would otherwise be exempt from  
27 Disposal Site designation requirements under WCC 8.15.070.A.
- 28 4. Any Solid Waste from which recovery of Recyclable  
29 Materials is precluded by federal, state, or local law, regulation, or  
30 order.

1                                   5.     Any Solid Waste delivered to the Disposal Site and  
2                                   received through payment of a disposal fee that varies from that  
3                                   approved by the County.

4                                   Priority Levels 3 through 5 - Disposal of Separated Waste

5                                   In order to maintain a Priority Level 3, 4, or 5 site designation, a Disposal  
6                                   Site shall Process the Unseparated County Solid Waste delivered to the  
7                                   site and recover and recycle a minimum of 7% by weight and dispose of a  
8                                   maximum of 93% by weight of the total Unseparated County Solid Waste  
9                                   delivered to the Disposal Site. The minimum 7% recovery / maximum  
10                                  93% disposal requirement applies to the sum of all Unseparated County  
11                                  Solid Wastes received at the Disposal Site, excluding the following  
12                                  materials:

13                                 1.     Source Separated Recyclable Materials.

14                                 2.     Recyclable Materials which are removed at the Disposal  
15                                 Site by the Person delivering the Solid Waste.

16                                 3.     Any Solid Waste delivered to the Disposal Site and  
17                                 processed in a manner that would otherwise be exempt from  
18                                 Disposal Site designation requirements under WCC 8.15.070.A.

19                                 4.     Any Solid Waste from which recovery of Recyclable  
20                                 Materials is precluded by federal, state, or local law, regulation, or  
21                                 order.

22                                 5.     Any Solid Waste delivered to the Disposal Site and  
23                                 received through payment of a disposal fee that varies from that  
24                                 approved by the County.

25                                 C.     The Processing of Construction and Demolition Debris and Land Clearing  
26                                 Byproducts (CDL) at recycling facilities for the recovery of recyclable material is  
27                                 an exempt activity (WCC 8.15.070.A.11) and does not require site designation  
28                                 under the Flow Control Ordinance. However, at the time the Flow Control  
29                                 Ordinance was originally adopted, WCC 8.15.030 specifically identified disposal  
30                                 sites allowed to receive CDL for disposal purposes.

1 Therefore, CDL is considered a special waste and delivery of CDL must be to a  
2 designated Disposal Site specifically approved to receive such material for  
3 disposal and may be delivered to a designated Disposal site specifically approved  
4 to receive such material regardless of the Disposal Site's designated priority level.  
5

6 BE IT FURTHER RESOLVED that the terms of all disposal site agreements with regard  
7 to preferred methods of disposal shall be initially on a three-year cycle, with a definite expiration  
8 date which is the same for all disposal site agreements executed for and during the life of that  
9 cycle; and,

10 BE IT FURTHER RESOLVED that all disposal site agreements executed by the County  
11 prior to (December 31, 1998) shall either:

12 A. Terminate on (December 31, 1998), or,

13 B. Shall not exceed (15 years) in length and that the agreement for such length of  
14 time shall provide for only an opportunity to compete for the solid waste stream  
15 after (December 31, 1998).

16 BE IT FURTHER RESOLVED that all disposal site agreements contain consistent terms  
17 providing for enforcement of the Flow Control Ordinance, associated resolutions, and the terms  
8 of the agreements themselves, and the resolution of disputes regarding the same; and,

19 BE IT FURTHER RESOLVED that review of the Flow Control Ordinance, of associated  
20 resolutions, and all administrative guidelines utilized to create or enforce disposal site  
21 agreements shall occur at least during all updates to the Comprehensive Solid Waste  
22 Management Plan and, therefore, the County maintains the right to add to, amend, or delete  
23 elements of WCC Chapter 8.15, clarifying language or performance standards contained in this  
24 resolution, or with associated resolutions, with the first review intended to be completed by  
25 (December 31, 1998) ; and,

26 BE IT FURTHER RESOLVED that the Solid Waste Executive Committee is hereby  
27 requested to review the Flow Control Ordinance relative to the exemption of CDL processing  
28 and/or disposal.

1 APPROVED this 2 day of January, 1996.

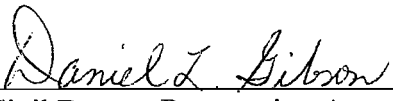
2  
3 ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

4   
5 Dana Brown-Davis,  
6 Clerk of the Council

  
Bob Imhof, Council Chair

7 APPROVED AS TO FORM:

8   
9 Civil Deputy Prosecuting Attorney

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