ANALYSIS

This ordinance amends Title 20 of the Los Angeles County Code to increase the solid waste management fee to $1.50 per ton of solid waste for all facilities except inert waste disposal landfills, and to add several exemptions to the fee. The ordinance also adds and amends definitions and makes other technical changes.

RAYMOND G. FORTNER, JR.
County Counsel

By Judith A. Fries
JUDITH A. FRIES
Principal Deputy County Counsel
Public Works Division

JAF:gjv

11/20/07 (requested)

10/8/08 (revised)

ORDINANCE NO. _____

An ordinance amending Title 20 - Utilities of the Los Angeles County Code, to increase and modify the solid waste management fee, add and amend definitions, and make other technical changes.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 20.56.015 is hereby added to read as follows:

20.56.015 Conversion technology.

"Conversion technology" means the processing of solid waste through noncombustion thermal, chemical or biological processes, other than composting. "Conversion technology" does not include biomass conversion, as defined in Section 40106 of the Public Resources Code, or transformation.

SECTION 2. Section 20.56.020 is hereby amended to read as follows:

20.56.020 Disposal site.

"Disposal site" means ~~and is~~ the place, location, tract of land, area or premises in use, ~~or~~ intended to be used, <u>or which has been used</u> for the ~~landfill~~ disposal of solid waste. <u>"Disposal site" includes a solid waste landfill, as defined in Section 40195.1 of the Public Resources Code, and includes a transformation facility.</u>

SECTION 3. Section 20.56.060 is hereby amended to read as follows:

20.56.060 Solid waste or wastes.

"Solid waste" or "wastes" means ~~and includes~~ all putrescible and nonputrescible solid<u>,</u> ~~and~~ semisolid <u>and liquid</u> wastes, such as <u>trash,</u> refuse, garbage, rubbish, paper, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and

parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid, ~~and~~ semisolid, and liquid wastes~~, and also includes liquid wastes disposed of in conjunction with solid wastes at solid-waste transfer/processing stations or disposal sites, but excludes~~. "Solid waste" includes dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste. "Solid waste" does not include any of the following:

A. Liquid ~~S~~sewage collected and treated in a municipal or regional sewerage system; ~~or~~

B. Materials or substances ~~having commercial value which have been~~that are salvaged for reuse, recycling or resale~~.~~ and that are not disposed;

C. Hazardous waste as defined in Section 40141 of the Public Resources Code;

D. Radioactive waste regulated pursuant to the Radiation Control Law, Section 114960 et seq. of the Health and Safety Code; or

E. Medical waste that is regulated pursuant to the Medical Waste Management Act, Section 117600 et seq., of the Health and Safety Code, and that is not deemed to be solid waste pursuant to Section 40191(b)(3) of the Public Resources Code.

SECTION 4. Section 20.56.090 is hereby amended to read as follows:

20.56.090 Transfer/processing station or station.

"Transfer/processing station" or "station" means ~~and includes those facilities~~a facility utilized to receive solid wastes~~;~~ and temporarily store, separate, convert or

otherwise process the materials in the solid wastes; or to transfer the solid wastes directly from smaller to larger vehicles or from vehicles to containers for transport. "Transfer/processing station" or "station" does not include any facility the principal function of which is to receive, store, separate, convert or otherwise process, in accordance with state minimum standards, manure; nor does it include any facility, the principal function of which is to receive, store, convert or otherwise process wastes ~~which~~that have already been separated for reuse and are not intended for disposal.

SECTION 5. Section 20.56.091 is hereby added to read as follows:

20.56.091 Transformation.

"Transformation" means incineration. Transformation does not include conversion technology.

SECTION 6. Section 20.56.092 is hereby added to read as follows:

20.56.092 Transformation facility.

"Transformation facility" means a facility whose principal function is to receive and manage solid waste through a transformation process.

SECTION 7. Section 20.88.020 is hereby amended to read as follows:

20.88.020 Definitions.

The following definitions apply in the application of this chapter.

A. "Clean fill project" means a project using only gravel, rock, soil, and/or sand, whether processed or not, that has never been used in connection with any structure, road, parking lot, or similar use.

B. "Composting" means the aerobic or anaerobic biological decomposition of organic wastes.

C. "Director" means the director of public works for the county of Los Angeles or his/her authorized representative.

~~B. "Disposal site" means the place, location, tract of land, area or premises in use, intended to be used, or which has been used for the disposal of solid wastes. "Disposal site" includes a solid waste landfill, as defined in Section 40195.1 of the Public Resources Code.~~

~~C~~D. "Dispose" means the final deposition onto land, into the atmosphere, or into the waters of the state.

~~D~~E. "Enforcement order" means an order issued by the director pursuant to Section 20.88.070A.

~~E~~F. "Hazardous waste" means all those wastes defined by Section 40141 of the Public Resources Code~~ and/or Section 25117 of the Health and Safety Code~~.

~~F~~G. "Hearing officer" means a person designated by the director as the hearing officer pursuant to Section 20.88.070C.2.

H. "Inert waste" means non-liquid solid waste that does not contain hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives established by a California Regional Water Quality Control Board, does not contain more than 5 percent decomposable waste, and has not been treated in order to reduce pollutants. "Inert waste" includes materials such as crushed glass,

brick, ceramics, clay and clay products, fiberglass roofing shingles, slag, plaster, soil, concrete, asphalt, and other inert construction and demolition debris.

I. "Inert waste landfill" or "inert waste facility" means any facility that accepts only inert waste, including but not limited to an Engineered Fill Activity, Inert Debris Engineered Fill Operation, or Inert Debris Type A Disposal Facility, as defined in Title 14, Division 7, Chapter 3, Article 6, Section 17388 of the California Code of Regulations. "Inert waste landfill" or "inert waste facility" does not include a clean fill project.

~~G~~J. "Operator" means ~~the~~a person ~~or entity to whom permission is granted, pursuant to Chapter 20.72 of this code or Section 40000 et seq. of the Public Resources Code, to operate~~operating, within the county of Los Angeles, a ~~waste exporter,~~ disposal site, ~~transformation facility or~~ transfer/processing station, or waste exporter for solid waste or a combination of solid waste and hazardous waste. "Operator" includes the person to whom permission is granted, pursuant to Chapter 20.68 or Chapter 20.72 of this code or Section 40000 et seq. of the Public Resources Code, to operate a disposal site, transfer/processing station, or waste exporter.

~~H. "Solid waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes,~~

~~and other discarded solid and semisolid wastes. "Solid waste" does not include any of the following:~~

~~1. Hazardous waste as defined in Public Resources Code Section 40141.~~

~~2. Materials or substances that are salvaged for reuse, recycling or resale and that are not disposed.~~

~~3. Radioactive waste regulated pursuant to the Radiation Control Law, Section 114960 et seq. of the Health and Safety Code.~~

~~4. Medical waste which is regulated pursuant to the Medical Waste Management Act, section 117600 et seq. of the Health and Safety Code, and which is not deemed to be solid waste pursuant to Section 40191(b)(3) of the Public Resources Code.~~

~~I. "Transfer/processing station" means a facility utilized to receive solid wastes and to temporarily store, separate, convert, or otherwise process the materials in the solid wastes and/or to transfer the solid wastes directly from smaller to larger vehicles or railroad trains for transport.~~

~~J. "Transformation" means incineration. Transformation does not include composting, pyrolysis, distillation, gasification, or other biological conversion.~~

~~K. "Transformation facility" means a facility whose principal function is to receive and manage solid waste through the transformation process.~~

~~L~~K. "Waste exporter" means an ~~business~~entity that collects, transports, conveys, or hauls any solid waste from a location originating within the county of Los Angeles to a location outside ~~of~~ the county of Los Angeles.

SECTION 8. Section 20.88.030 is hereby amended to read as follows:

20.88.030 Payment of fee.

A. The operator of every disposal site, ~~transformation facility,~~ transfer/processing station, or waste exporter shall be liable for the payment of the applicable solid waste management fee. In the event any fees or administrative penalties have accrued, and remain unpaid, in whole or in part, at the time any operator transfers ownership of its business to a new operator, both the predecessor and successor operators shall be jointly and severally liable for the unpaid fees and any unpaid administrative penalties.

. . .

SECTION 9. Section 20.88.040 is hereby amended to read as follows:

20.88.040 Exemptions from fee.

The following activities and entities are exempt from the payment of the solid waste management fee:

A. Facilities or portions thereof, established for research purposes only, funded primarily by government grants;

B. Drilling-mud disposal sites for short-term use (less than one year) on a one-time-use per site basis where significant quantities of hazardous or toxic materials are not present in the mud, fluids or cuttings from drilling and associated operations, and if the sites have currently valid waste discharge requirements from a California Regional Water Quality Control Board;

C. Farm or ranch disposal sites for one- or two-family use;

D. Resource recovery facilities intended only for demonstration purposes, not to exceed two years, not operated for profit, and not accepting significant quantities of waste;

E. Transfer/processing stations are exempt from the payment of the solid waste management fee for any:

1. ~~s~~Solid waste received at ~~a~~the transfer/processing station for transportation to disposal sites ~~or transformation facilities~~ located within the county of Los Angeles. To qualify for the exemption, transfer/processing station~~s~~ operators must notify the director in writing of the claim of exemption. The notice must be in the form prescribed by the director, must be submitted for each calendar month for which the exemption is sought, and must be signed by an authorized officer or principal of the operator of the transfer/processing station who must attest under penalty of perjury to the facts on which the exemption is based, including a statement that the solid waste which is the subject of the exemption has not been transported and/or disposed outside ~~of~~ the county of Los Angeles; and

2. Solid waste received at the transfer/processing station for transportation outside the county of Los Angeles and subsequently recycled or otherwise diverted from disposal. To qualify for the exemption, transfer/processing station operators must notify the director in writing of the claim of exemption. The notice must be in the form prescribed by the director, must be submitted for each calendar month for which the exemption is sought, and must be signed by an authorized officer or principal of the operator of the

transfer/processing station who must attest under penalty of perjury to the facts on which the exemption is based, including a statement that the solid waste which is the subject of the exemption has been recycled or otherwise diverted from disposal. The notice must be accompanied by receipts or other documentation from each facility accepting the solid waste for diversion, which documentation substantiates to the satisfaction of the director that the waste was recycled or otherwise diverted from disposal;

F. Industrial disposal sites located on the producer's property to be used for the exclusive disposal of insignificant quantities of the owner's wastes. These wastes must be nonhazardous, and their disposal shall not pose a threat to the public health, safety, or the environment. To qualify for the exemption, an industrial disposal site must not be subject to waste discharge requirements prescribed pursuant to Section 13263 of the Water Code and the industrial disposal site must not be required to obtain a solid waste facilities permit pursuant to Section 44000 et seq. of the Public Resources Code;

G. Evaporation ponds for disposing of salts from oil and geothermal drilling operations, if the ponds have been prescribed waste discharge requirements pursuant to Section 13263 of the Water Code;

H. The use of soil or other material for final cover in an inert waste landfill if approved by the director pursuant to standards, guidelines or criteria established under Section 20.88.100. The exemption may be approved for no more than 3 feet of final cover materials unless a final cover of more than 3 feet is required by applicable federal, state, or local law or regulation. In no case shall the exemption be approved for final

cover exceeding 10 feet in depth or 10 percent of the total waste material deposited at the site throughout the site's life, whichever is less.

I. The use of soil for daily, intermediate, and final cover in a solid waste landfill other than an inert waste landfill. The use of material other than soil is exempt from the payment of the solid waste management fee if approved by the director pursuant to standards, guidelines or criteria established under Section 20.88.100.

J. Conversion technology facilities;

K. Clean fill projects;

L. Composting activities;

~~H~~M. Disposal of ash residuals produced at a transformation facility.

SECTION 10. Section 20.88.050 is hereby amended to read as follows:

20.88.050 Calculation of solid waste management fee.

A. The solid waste management fee shall be calculated for each disposal site, ~~transformation facility,~~ transfer/processing station, or waste exporter based upon the tons or cubic yards of solid waste received, collected, conveyed, or hauled during a calendar month.

B. Except as set forth below, the solid waste management fee shall be $0.86 per ton of solid waste. In situations where the director determines that solid waste cannot be measured in tons, solid waste shall be measured in cubic yards and the solid waste management fee shall be $0.52 per cubic yard. (This subsection B shall not be effective after December 31, 2008.)

B. For all inert waste landfills, the solid waste management fee shall be $0.52 per cubic yard of inert waste. For all other disposal sites, transfer processing stations, and waste exporters, the solid waste management fee shall be $1.50 per ton of solid waste. (This subsection B shall become effective on January 1, 2009.)

SECTION 11. Section 20.88.060 is hereby amended to read as follows:

20.88.060 Record retention and access to records.

A. Each operator shall maintain records, information, and documentation that substantiate the tons or cubic yards of solid waste received, collected, recycled, reused, conveyed, or hauled during each calendar month at each of the operator's disposal sites, ~~transformation facilities,~~ transfer/processing stations, and waste exporter. The records, information, and documentation shall include the procedures the operator used to determine and measure the quantity of such solid waste. The operator shall maintain such records, information, and documentation for a period of three years from the date such solid waste was received, collected, recycled, reused, conveyed, or hauled by the operator.

B. Upon receipt of a minimum of three business days' written notice from the director, an operator shall provide the director with access for inspection and copying of all records, information, or documentation maintained pursuant to Section 20.88.060A.

SECTION 12. Section 20.88.070 is hereby amended to read as follows:

20.88.070 Enforcement order, administrative penalty, and appeals.

A. Enforcement Order.

1. The director shall have the authority to issue an enforcement order

for any violation of any provision of this chapter. The enforcement order shall provide notice of the violation, the applicable administrative penalties, and the availability of an administrative appeal.

2. Service of any enforcement order shall be upon the person or entity in real or apparent charge or control of the involved disposal site, ~~transformation facility,~~ transfer/processing station, or waste exporter. Service shall be by personal delivery or by registered or certified mail, return receipt requested, at the director's election. In the event, after reasonable effort, the director is unable to serve the enforcement order or decision of the hearing officer as specified above, service shall be accomplished by posting a copy of the enforcement order or decision of the hearing officer on the premises of the disposal site, ~~transformation facility,~~ transfer/processing station, or waste exporter. The date of service is deemed to be the date of mailing, personal delivery, or posting, as applicable.

3. The director's issuance of an enforcement order shall be final unless an appeal from the order has been filed as provided in Section 22.88.070.C.

. . .

SECTION 13. Section 20.88.100 is hereby added to read as follows:

20.88.100 Standards, guidelines and criteria.

A. The director may establish standards, guidelines and criteria consistent with this chapter for approval of an exemption from the payment of the solid waste management fee under Section 20.88.040.H for the use of soil or other materials for final cover in an inert waste landfill.

B. The director may establish standards, guidelines and criteria consistent with this chapter for approval of an exemption from the payment of the solid waste management fee under Section 20.88.040.I for the use of materials other than soil for daily, intermediate, and final cover in a solid waste landfill other than an inert waste landfill.

[2056JFCC]