

LEELANAU COUNTY SOLID WASTE ORDINANCE

Ordinance No. _____

As Adopted by the
Leelanau County Board of Commissioners

LEELANAU COUNTY SOLID WASTE ORDINANCE

ARTICLE I – TITLE, PURPOSE, AUTHORITY AND JURISDICTION

Section 1.0 - Title

This Ordinance shall be known as the Leelanau County Solid Waste Ordinance.

Section 1.1 - Purpose

The purpose of this Ordinance is to implement the Leelanau County Solid Waste Management Plan, as amended, and as adopted pursuant to Part 115 of 451 P.A. 1994 (hereinafter referred to as Part 115), to protect and promote the public health, safety and welfare of the inhabitants of Leelanau County by establishing a mechanism to administer and enforce the Leelanau County Solid Waste Management Plan; to provide residents and businesses an incentive to recycle, thereby reducing the volume of solid waste; to preserve and improve the environment; to provide penalties for violations of the Ordinance; and to establish a county surcharge on solid waste transported through a transfer facility in Leelanau County, or disposed of in Leelanau County. The funds collected by this Ordinance will be used to support the administration and solid waste planning and implementation programs described in the Leelanau County Solid Waste Management Plan, as amended.

Section 1.2 - Authority

This Ordinance is enacted pursuant to Section 11(j) of Michigan Public Act 156 of 1851, being Michigan Compiled Law 46.11(j); Act 451 of 1994, Part 115, being Michigan Compiled Law 324.11501 *et seq.*, and the Leelanau County Solid Waste Management Plan, as amended.

Part 115 authorizes Leelanau County and its municipalities to approve a Solid Waste Management Plan (“Plan”) which contains local planning and regulation of waste disposal. The approved Plan is required to include identified enforcement mechanisms and to indicate persons or entities responsible for implementation and enforcement of that Plan. Leelanau County’s authorized Plan allows for various funding mechanisms to be utilized by the County to implement its responsibilities under the Plan.

Section 1.3 - Jurisdiction

The jurisdiction of this Ordinance shall be countywide, including all cities, villages and townships in Leelanau County, except for those cities, villages and townships that have enacted such an ordinance.

ARTICLE II - FINDINGS

Section 2.0 - Findings

The Leelanau County Board of Commissioners (“Board”) finds that this Solid Waste Ordinance is necessary to fulfill the Leelanau County Board of Commissioners’ responsibilities under Part 115 and the Leelanau County Solid Waste Plan (“Plan”) including all updates.

The Board finds that regulations contained herein do not supercede or contradict federal, state or local laws, including Part 115, and its rules and regulations as they pertain to solid waste management.

The Board specifically finds that solid waste user fees contained herein are necessary to ensure the effective County Plan development, Plan implementation, and administration as required by Part 115 and the Plan. All fees imposed herein shall be collected and separately segregated from other County funds and be spent only pursuant to the purposes outlined in the Plan and contained in this Ordinance.

ARTICLE III - ADMINISTRATION

Section 3.0 - Administration

The Leelanau County Solid Waste Council is hereby designated as the County Enforcing Agency responsible for administering and enforcing this Ordinance. For enforcement purposes under this Ordinance, the Leelanau County Prosecutor’s Office and the Leelanau County Sheriff’s Office are also designated as County Enforcing Agencies.

ARTICLE IV - DEFINITIONS

Section 4.0 - Definitions

Where words and phrases are not defined under the provisions of this section, they shall have ascribed to them their ordinarily accepted meanings, or such as the context herein may imply. For purposes of this Ordinance, the words and phrases listed below shall have the following meanings:

“Part 115” means the Part 115 of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of Michigan 1994, as amended. being Michigan Compiled Law 324.11501 et seq.

“Administrator” means the Leelanau County Administrator.

“Board” means the Leelanau County Board of Commissioners.

“County” means the County of Leelanau, Michigan, acting by and through the Leelanau County Board of Commissioners.

“County Board” means the Leelanau County Board of Commissioners.

“County Enforcing Agency” means the Leelanau County Solid Waste Council, and for enforcement purposes, the Leelanau County Prosecutor’s Office and the Leelanau County Sheriff’s Office.

“Garbage” for all purposes of this Ordinance shall have the same meaning as Solid Waste.

“Hazardous Waste” means those wastes that are regulated by Act No. 64 of the Public Acts of 1979 as amended or 40 CFR parts 260 through 265 of the Federal Regulation.

“Household Hazardous Waste” means any material commonly found in the household, which because of its quantity, concentration or physical, chemical or infectious characteristic, may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or otherwise managed.

“Landfill” means a disposal area for solid waste which has been issued a permit and is regulated by the Michigan Department of Environmental Quality (MDEQ), pursuant to Part 115 of the Natural Resources and Environmental Protection Act, being Michigan Compiled Law 324.11501 *et seq.* and which is included in the Plan.

“Person” means any individual, firm, public or private corporation, partnership, trust, public or private agency, or any other entity, or any group of such persons.

“Plan” means the Leelanau County Solid Waste Management Plan, as amended.

“Sewage” means a liquid waste which includes human excreta, waste from sink, lavatory, bathtub, shower or laundry, and any other liquid waste of organic or chemical nature, either singularly or in any combination thereof.

“Solid Waste” as defined by Part 115 of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of Michigan 1994, as amended, being Michigan Compiled Law 324.11501.

“Solid Waste Council” or “SWC” means the Leelanau County Solid Waste Council, as appointed by the Leelanau County Board of Commissioners.

“Surcharge” or “Fees” means the fees and charges established by the Board of Commissioners as provided in Article V of this Ordinance.

“Transfer Station” as defined by Part 115 of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of Michigan 1994, as amended, being Michigan Compiled Law 324.11501.

“Waste Hauler” means any person primarily engaged in the business of transportation, delivery, or disposal of solid waste collected within the County.

ARTICLE V - FEES, COLLECTION AND EXEMPTIONS

Section 5.0 - Fees

The cost of developing, implementing, administrating and enforcing the Plan and this Ordinance will be financed from the fees and fines provided for under this Ordinance. The fee schedule shall be established so as to adequately provide for such activities. The County Board of Commissioners will review the fee schedule at least annually, and adjust the fees to provide for the budgetary needs for implementation, administration, and enforcement of the Plan and this Ordinance. The fee schedule will be a separate document, attached to this Ordinance. All fees will be collected through a payment program and deposited in a segregated fund to be used exclusively for purposes of funding the implementation, administration, and enforcement of the Plan and this Ordinance. The fee schedule may be amended by resolution of the Leelanau County Board of Commissioners and shall take effect when notice of the adoption of the amendment is published in a newspaper of general circulation in the county. A fee will be imposed on each cubic yard, as measured at the gate of the landfill or transfer station, as outlined in the attached fee schedule, unless otherwise exempt from the requirements of this Ordinance as set forth in Section 5.1.

Section 5.1- Collection and Reporting Requirements

1. All fees shall be collected by the owner or operator of a landfill and payments shall be remitted to the County within twenty (20) days after the end of each calendar quarter, along with an accompanying report showing the volumes collected, fees collected, and location of where the solid waste originated. A late payment, as set forth in the fee schedule adopted by the Leelanau County Board of Commissioners, shall be assessed against the owner/operator for each day the surcharges collected are not remitted to the County after the due date. Payments shall be remitted to the Leelanau County Treasurer.

2. Collection of County Surcharge by Landfill Operator

The county surcharge for waste which is disposed of in a licensed landfill in Leelanau County shall be collected by the landfill operator. A landfill operator shall pay to the Leelanau County Treasurer the county surcharge on a quarterly basis. The payment shall be due within twenty (20) days after the end of each calendar quarter. A landfill operator shall maintain records of the collection of the county surcharge for a period of three (3) years. Records pertaining to the volume of waste accepted by a landfill shall be made available for review by the Administrator. The Administrator shall be provided a copy of the volume reports provided to the Michigan DEQ as provided by state law.

Should a user of the disposal facility refuse to pay the user fee, the landfill owner/operator may either refuse to receive the solid waste contained in that load, or the facility owner/operator may pay the user fee and admit the solid waste for disposal.

3. Collection of County Surcharge by Transfer Station Operator

The county surcharge for waste which is disposed of outside Leelanau County and which passes through a transfer station located within Leelanau County shall be collected by a transfer station operator. A transfer station operator shall pay to the Leelanau County Treasurer the county surcharge on a quarterly basis. The payment shall be due within twenty (20) days after the end of each calendar quarter. A transfer station operator shall maintain records of the collection of the county surcharge for a period of three (3) years. Records pertaining to the volume of waste passing through a transfer station shall be made available for review by the Administrator.

Should a user of the transfer station refuse to pay the user fee, the owner/operator may either refuse to receive the solid waste contained in that load, or the owner/operator may pay the user fee and admit the solid waste for disposal.

4. Reporting Requirements

With the surcharge payment, the owner/operator of a landfill and/or a transfer station shall submit a report stating the volumes of waste collected, fees collected, and location from where the solid waste originated.

5. Exemption from Ordinance

A landfill or transfer station owner/operator shall be exempt from this Ordinance if a separate agreement has been entered into with Leelanau County which provides for alternate methods of payment of the surcharge, and which contract is in force.

Section 5.2 - Exceptions:

Publicly owned wastewater treatment plants operating within Leelanau County that landfill sludge from their facilities are exempt from the requirements of this Ordinance.

ARTICLE VI – AUDITS AND INSPECTIONS

Section 6.0 - Independent Audit by Administrator

The Administrator shall have the right, at its own cost, from time to time at reasonable times, to hire an independent auditor to cause an audit to be made of landfill, or transfer station records for the purpose of verifying the accuracy of county surcharge payments made by the landfill, or transfer station. The Administrator, through the independent audit, shall not record or abstract any information concerning landfill, or transfer station operations not necessary for that determination. Any overpayment or underpayment discovered as the result of such audit shall be refunded to the landfill, or transfer station, in the case of overpayment, or paid to the Administrator, in the case of underpayment, within thirty (30) days of written receipt of the audit results.

Section 6.1 – Inspections

Leelanau County may inspect, upon reasonable notice, the records related to collection of the county surcharge of a landfill operator or transfer station owner to monitor compliance with this Ordinance.

ARTICLE VII - ENFORCEMENT

Section 7.0 - Enforcement

The Leelanau County Solid Waste Council shall enforce the provisions of the Ordinance, in conjunction with the Leelanau County Prosecutor’s Office and the Leelanau County Sheriff’s Office. In the event that a owner/operator of a landfill and/or transfer station violates this Ordinance by failing to submit the surcharge, the Leelanau County Solid Waste Council shall consult with the Administrator before taking action

Section 7.1 - Penalties

Pursuant to Section 11(j) of Michigan Public Act 156 of 1851, being Michigan Compiled Law 46.11(j), any person violating the provisions of this Ordinance shall be guilty of a misdemeanor punishable by a fine of up to \$500.00, per violation or imprisonment not to exceed ninety days, or both. Each day a violation exists shall be considered a separate violation.

ARTICLE VIII - RULES

Section 8.0 – Adoption of Rules

The County Board of Commissioners may adopt Rules to carry out the provisions of this Ordinance. The Rules may be amended from time to time by the County Board of Commissioners.

ARTICLE IX - MISCELLANEOUS

Section 9.0- Severability

Sections of the Ordinance shall be deemed severable and should any section, clause, or provision of this Ordinance be declared invalid, it shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

ARTICLE X - EFFECTIVE DATE

Section 10.0 - Effective Date

This Ordinance shall become effective immediately upon publication in a newspaper of general circulation in Leelanau County.

_____, Chairman
Leelanau County Board of Commissioners

I, Michelle Crocker, Clerk of the County of Leelanau, hereby certify that the forgoing ordinance was introduced and adopted at a session of said Board convened in the Leelanau County Courthouse on _____.

Michelle Crocker, Leelanau County Clerk