

# Chapter 459

## 1969 REPLACEMENT PART

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**STATE ADMINISTRATION**

**459.010 Definitions for ORS 459.010 to 459.080.** As used in ORS 433.720 to 433.730, 450.075, 450.810, 450.820, 451.570 and 459.010 to 459.080, unless the context requires otherwise:

(1) "Board" means the State Board of Health.

(2) "Commission" means the Environmental Quality Commission.

(3) "Department" means the Department of Environmental Quality.

(4) "Disposal site" means any land used for the disposal of solid wastes including but not limited to dumps, landfills and composting plants, but does not include a landfill site which is not used by the public either directly or through a service and which is used by the owner or tenant thereof to dispose of sawdust, bark, soil, rock, building demolition material or nonputrescible industrial waste products resulting from the process of manufacturing.

(5) "Solid waste" means all putrescible and nonputrescible wastes, whether in solid or liquid form, except liquid-carried industrial wastes or sewage or sewage hauled as an incidental part of a septic tank or cesspool cleaning service, but including garbage, rubbish, ashes, sewage sludge, street refuse, industrial waste, swill, demolition and construction waste, abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid waste, dead animals, and other discarded solid materials.

(6) "Waste" means useless, unwanted or discarded materials.

[1967 c.428 §2; 1969 c.593 §42]

**459.020 Policy.** To protect the health, safety and welfare of the people of Oregon and to provide a coordinated state-wide program on disposal of solid wastes, it is declared to be public policy of the State of Oregon to regulate solid waste disposal and disposal sites to:

(1) Provide for safe and sanitary storage, collection, transportation and disposal of solid wastes.

(2) Develop long-range plans to provide adequate disposal sites and disposal facilities to meet future demands.

(3) Provide a coordinated state-wide program of control of solid wastes in cooperation with federal, state and local agencies responsible for the prevention, control or abatement of air, water and ground pollution.

(4) Provide funds for, and encourage research, studies, surveys and demonstration projects on developing more sanitary, efficient and economical solid waste disposal programs.

[1967 c.428 §1]

**459.030 Transfer of personnel to Environmental Quality Commission.** The engineering personnel of the Solid Waste Control Section in the Division of Sanitation and Engineering of the State Board of Health is hereby transferred into the Department of Environmental Quality.

[1967 c.428 §3; 1969 c.593 §43]

**459.040 Rules on storage, collection, transportation and disposal; rules on pollution control.** (1) Except as provided in subsection (2) of this section, the Environmental Quality Commission with the advice and assistance of the board shall promulgate reasonable rules governing storage, collection, transportation and disposal of solid wastes limited to the following:

(a) Storage and disposal of solid waste to prevent:

(A) Vector production and sustenance.

(B) Conditions for transmission of diseases to man and animals.

(C) Air pollution.

(D) Pollution of surface and ground waters.

(E) Hazards to service or disposal workers or to the public.

(b) Storage of solid wastes at the point of origin to eliminate conditions conducive to the creation of vector nuisances and air and water pollution through proper container construction and design, and through solid waste handling practices including, but not limited to, container maintenance.

(c) Disposal sites with respect to:

(A) Adaptability of the site to population served, topography and geology of the area, protection of ground and surface waters, air pollution, accessibility, longevity, salvage and ultimate site use.

(B) Standards of design, management and operation.

(C) Regulation and limitation of open burning.

(D) Salvage operations.

(d) Construction, loading and operation of vehicles used in performing service to prevent the contents thereof from dropping, sifting, leaking or escaping onto public highways.

(2) The Environmental Quality Commission shall promulgate reasonable rules relating to air pollution and pollution of surface and ground water necessary to carry out the provisions of ORS 433.720 to 433.730, 450.075, 450.810, 450.820, 451.570 and 459.010 to 459.080.

(3) All rules promulgated under this section shall be adopted in accordance with the provisions of ORS chapter 183.

[1967 c.428 §4; 1969 c.593 §44]

**459.050 Cooperation with Federal Government and others.** (1) The department and the board may apply to and receive funds from the Federal Government and from public and private agencies to carry out studies, research and demonstration projects in the field of solid waste disposal.

(2) The department and the board may enter into agreements with the Federal Government, state agencies, local public agencies, and private institutions and firms to carry out the purposes of ORS 433.720 to 433.730, 450.075, 450.810, 450.820, 451.570 and 459.010 to 459.080.

(3) The department and the board may expend funds for and participate in studies, research, and demonstration projects in the field of solid waste disposal to carry out the purposes of ORS 433.720 to 433.730, 450.075, 450.810, 450.820, 451.570 and ORS 459.010 to 459.080.

[1967 c.428 §5; 1969 c.593 §45]

**459.060 Entry on private premises authorized.** The department, board or county, district or city board of health personnel may enter upon the premises of any person regulated by ORS 433.720 to 433.730, 450.075, 450.810, 450.820, 451.570 and 459.010 to 459.080, at reasonable times, to determine compliance with ORS 433.720 to 433.730, 450.075, 450.810, 450.820, 451.570 and ORS 459.010 to 459.080 and the rules promulgated thereunder.

[1967 c.428 §6; 1969 c.593 §46]

**459.070 Abatement of nuisances after hearing.** Nothing in ORS 433.720 to 433.730, 450.075, 450.810, 450.820, 451.570 and 459.010 to 459.080 shall prevent the maintenance of actions or suits relating to private or public nuisances in the field of solid waste disposal and allied activities.

[1967 c.428 §7; 1969 c.593 §47]

**459.080 Authority of cities and home-rule counties to enact supplemental regulations.** Nothing in ORS 433.720 to 433.730,

450.075, 450.810, 450.820, 451.570 and 459.010 to 459.080 is intended to prevent any city or home rule county from enacting supplemental regulations that are necessary to meet special local conditions on storage, collection, transportation or disposal of solid wastes.

[1967 c.428 §8]

## COUNTY NUISANCE ABATEMENT PROCEDURE

**459.110 Definitions for ORS 459.110 to 459.160.** As used in ORS 459.110 to 459.160, unless the context requires otherwise:

(1) "Disposal site", "solid waste" and "waste" have the same meanings given those terms by ORS 459.010.

(2) "Board of county commissioners" or "board" includes county court.

[1969 c.509 §1]

**459.120 County ordinances regulating waste on private property authorized.** Except as provided in subsection (3) of ORS 459.130, for the protection of the public health, welfare, safety and morals, the board of county commissioners of any county may enact ordinances regulating waste and solid waste on private property, outside the limits of cities, as a public nuisance. An ordinance may:

(1) Prohibit the storage, collection, maintenance or display on private property of waste or solid waste that is offensive or hazardous to the health and safety of the public; or which creates offensive odors or a condition of unsightliness.

(2) Provide for abatement of such offensive, hazardous or unsightly conditions as a public nuisance.

[1969 c.509 §2]

**459.130 Hearing; notice; voter referral of ordinance; exceptions to ORS 459.120.** (1) An ordinance authorized by ORS 459.120 may be adopted only after a hearing conducted by the board, and shall take effect 30 days after the date of enactment unless a later effective date is specified in the ordinance. Notice of such a hearing shall be published for two successive days, not less than 10 days before the hearing, in a newspaper considered by the board to be of general circulation within the county. The board may also cause the notice to be published by radio and television stations located within the county, or heard or viewed in the county.

(2) The board may refer an ordinance adopted under ORS 459.120 to the voters of the county for their approval or rejection.

An ordinance adopted under ORS 459.120 is a local law within the meaning of, and subject to, ORS 254.310, relating to initiative and referendum.

(3) ORS 459.120 does not apply to:

(a) Disposal sites operated in compliance with rules or regulations promulgated by a state agency or established by a county ordinance pursuant to ORS 459.010 to 459.080.

(b) Agricultural operations and growing or harvesting of crops and the raising of fowls or animals.

[1969 c.509 §3]

**459.140 Notice to abate public nuisance; hearing; abatement suit in name of county.**

(1) Whenever it appears that there is reasonable cause to believe that a public nuisance exists, the board may order that a notice be issued and served upon the owner, tenant, occupant or person in possession of the premises where the nuisance is alleged or claimed to exist, requiring such person to appear before the board at the time and place stated in the notice to show cause why a nuisance should not be declared to be existing on the premises.

(2) At the time and place described in said notice, the board shall conduct a public hearing on the question of the existence of the alleged nuisance, and if the board finds that a nuisance exists, it shall declare the existence of a nuisance by order entered in its journal, and shall order a suit to be brought in the name of the county for its abatement.

[1969 c.509 §4]

**459.150 County may remove waste under writ; county liability; costs against person or as lien.** Where a writ of abatement is issued pursuant to ORS 459.140, the county may remove from the subject premises the waste or solid waste found to be the cause of such nuisance. Where such removal is performed by the county, the county shall not be liable for any trespass or conversion as to any real or personal property and the costs may be collected from the person served in accordance with ORS 459.140, or may be collected as a lien against such property.

[1969 c.509 §5]

**459.160 Effect of ORS 459.110 to 459.160 on other pollution control agencies.** Nothing in ORS 459.110 to 459.160 is intended to diminish the authority or powers of any agency with regard to the enforcement of pollution.

[1969 c.509 §7]

**COUNTY REGULATION OF SOLID WASTE DISPOSAL**

**459.210 Definitions for ORS 459.210 to 459.240.** As used in ORS 459.210 to 459.240, unless the context requires otherwise:

(1) "Service" means the collection, transportation or disposal by private companies of solid waste for compensation.

(2) "Solid waste" means "solid waste" as defined in ORS 459.010.

[1969 c.90 §2]

**459.220 Policy.** To protect the health, safety and welfare of the people of Oregon, it is declared to be the public policy of the State of Oregon to authorize counties, subject to provisions of ORS 459.010 to 459.080, to provide for a coordinated program for collection and disposal of solid waste, to regulate collection and disposal of solid waste, to insure adequate standards and maintenance of service or to franchise collection or disposal of solid waste.

[1969 c.90 §1]

**459.230 Regulatory authority of county.** Subject to provisions of ORS 459.010 to 459.080, any county court may:

(1) Prescribe by ordinance:

(a) The quality and character of and rates for service provided to any area outside of an incorporated city;

(b) Franchise service within service areas established by the county court;

(c) Prescribe and collect a franchise fee from those providing service to service areas;

(d) Establish minimum requirements to guarantee maintenance of service; or

(e) Exclude or reject any person providing or proposing to provide service to any service area within the county.

(2) Require that the person providing service make modifications, additions or extensions to his physical equipment, facilities, plant or service within service areas as shall be reasonable and necessary in the interest of the public.

(3) Enter into any agreement which the county court determines is desirable with any city or county for joint or regional franchising of service.

[1969 c.90 §3]

**459.240 Effect of ORS 459.210 to 459.240.** Nothing in ORS 459.210 to 459.240 shall limit the authority of a county to regulate or provide for solid waste collection and

disposal in any manner otherwise provided by law.  
[1969 c.90 §4]

### PENALTIES

**459.990 Penalties.** (1) Any violation of the rules promulgated under ORS 459.040 is a misdemeanor and is punishable, upon conviction, by a fine of not more than \$500, or

by imprisonment in the county jail for not more than six months, or both.

(2) Any person found to be in violation of ordinances enacted under ORS 459.120 is guilty of creating a public nuisance and is punishable upon conviction by a fine of not more than \$500 or by imprisonment in the county jail for not more than six months or both.

[1967 c.428 §16; 1969 c.593 §48; subsection (2) enacted as 1969 c.509 §6]

### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.  
Done at Salem, Oregon,  
on December 1, 1969.

Robert W. Lundy  
Legislative Counsel

