

## CHAPTER 31 – SANITARY LANDFILLS

### Article I – Environmental Pollution Control Facility

31-1-1 New Environmental Pollution Control Facility in Jefferson County. No Sanitary landfill, industrial-hazardous waste or hazardous waste treatment facility, or any other disposing area for the dumping of garbage water materials or other noxious matters or other hazardous waste treatment facility shall be commenced in Jefferson County from and after the date of this Ordinance without the prior written approval of the Jefferson County Board, by an Ordinance duly passed by the Jefferson County Board and signed by the Chairman of the Board and attested to by the County Clerk of Jefferson County. (10/16/1990)

31-1-2 Definitions. The following terms or words shall have the meanings ascribed to them as follows:

(A) An “Applicant” is any person, firm or partnership, association, corporation, company or organization of any kind who files a request for site approval pursuant to this Chapter.

(B) A “Hazardous Waste Disposal Site” is a site at which hazardous waste is disposed. A “Hazardous Waste Treatment Facility” is a facility at which hazardous wastes are treated by any means. “Hazardous Waste” is a waste as defined in the Illinois Environmental Protection Act, (hereinafter referred to as the Act) (415 ILCS 5/).

(C) A “Regional Pollution Control Facility” is any waste storage site, sanitary landfill, waste disposal site, hazardous waste treatment facility, waste transfer station, or waste incinerator that accepts waste from or that serves an area that exceeds or extends over the boundaries of any local general purpose unit of government in Jefferson County. A Regional Pollution Control Facility is also any facility defined as such in the Act.

(D) “IEPA” is the Illinois Environmental Protection Agency.

In addition, all other words used in this Chapter and defined in the Act shall have the same definitions and meanings as found in 415 ILCS 5/3.

31-1-3 Applications.

(A) A minimum of twenty (20) complete copies of requests for site approval, including twenty (20) copies of all site plans, exhibits, and maps, shall be filed in the office of the County Clerk. Upon receipt of any such request for site approval, the County Clerk shall date stamp and immediately deliver fifteen (15) copies of the request for site approval to the Chairman of the County Board, one (1) copy to the office of the State’s Attorney, two (2) additional copies of the request for site approval to each municipality that may be affected by the proposal.

(B) A copy of the request for site approval shall be made available for public inspection in the Office of the County Clerk and members of the public shall be allowed to obtain a copy of

the request for site approval or any part thereof upon payment of the actual cost of reproduction. All copying requests shall be fulfilled by the County Clerk within a reasonable time from the time of the request.

(C) Requests for site approval shall be in the form set forth by the Jefferson County Board and shall at a minimum include the following:

1. A written petition on a 8 ½" x 11" paper which sets forth:

(a) the identification of the applicant and owner, and main shareholders, if the applicant is a corporation; and if the proposed site is owned in trust, the beneficiaries;

(b) the legal description of the proposed site and a street address or some other reasonable description of where the proposed site is located;

(c) a description of the proposed facility, its operation and the expected longevity thereof;

(d) the area to be served by the proposed facility and a statement of the needs of such area for such a facility, including specific localities and/or corporations proposed to be served by the facility;

(e) a list of the existing Regional Pollution Control Facilities within the area proposed to be served that handle any of the types of waste proposed to be handled at the proposed facility and, with respect to each facility, the following information shall be provided: location, size, owner and/or operator, type of pollution control facility, remaining capacity, probable life of the proposed facility, and types of wastes received.

(f) the expected types, amounts, and methods of treatment or storage of all wastes proposed for the site and the origins of these wastes;

(g) a description of the geologic and hydrogeologic character of the site including core samples, the monitoring plans, including any background analysis for ground water, surface water, and air;

(h) reasons supporting approval of the application.

2. The request for a permit made to the Jefferson County Board or any other documents concerning the proposed facility prepared for and/or filed with the Illinois Environmental Protection Agency, shall be made available if any such request has been made.

3. A site plan showing details of the proposed facility including but not limited to:

(a) cross sections;

(b) all existing wells potable (used for drinking) or water sources and existing homes, farms, schools, and health care facilities, within a 2.5 mile radius of the boundaries of the proposed facility;

(c) all monitoring wells;

(d) fences, buildings, and other structures;

(e) roads, entrances, and driveways, types of roads, weight limits on these roads;

(f) core sample locations on and within two hundred (200) feet of the site;

- (g) site floor plan including, but not limited to:
- (1) loading/unloading bays
  - (2) waste analysis/laboratory area
  - (3) piping diagrams
  - (4) all storage tanks, including secondary containment devices
  - (5) air purification and pollution control equipment
  - (6) air and wastewater discharge system
4. A detailed topographic survey of the subject site and the surrounding area within five hundred (500) feet which indicates land use and, if applicable, the boundary of the one hundred (100) year flood plain as determined by the Illinois Department of Transportation.
5. A statement of the plan of operation for the proposed facility, including but not limited to the following:
- (a) method of landfilling, incineration, resource recovery treatment or other process;
  - (b) hours of operation;
  - (c) personnel;
  - (d) facility inspection and security plans;
  - (e) litter, vector, dust, and odor control;
  - (f) surface drainage erosion control;
  - (g) fire control;
  - (h) corrective actions for spills and other operational accidents;
  - (i) if applicable, the stages of development or use;
  - (j) an end use plan.
6. A statement or report on traffic information regarding the proposed site including the anticipated number of vehicles and their size, weight, and direction of movement.
7. All studies, maps, reports, permits or exhibits which the applicant desires the County Board to consider at public hearing.
8. A description of the insurance policies carried by the applicant and/or owner to cover single accidents, such as fires or explosions, and non-sudden accidental occurrences and other liability incurred from operating the proposed facility.
9. If the site is a proposed hazardous waste facility, a copy of the Resource Conservation Recovery Act Contingency Plan.
10. A two hundred thousand (200,000) dollar application fee to cover notice costs, court reported costs, transcription costs, County consultant costs, hearing officer costs, and other expenses incurred by the County of Jefferson in conducting the review of the request for site approval, the subsequent public hearing, and the site approval decision, provided however, that any portion of the application fee that remains unexpended at the conclusion of the hearing process shall be returned to the applicant. Should there be any additional costs

incurred by the County over the amount paid by the applicant in the application fee, the applicant shall bear any and all additional costs and applicant shall pay all costs within five (5) days of receipt of bill. If the County of Jefferson in joint venture with the City of Mt. Vernon shall be an applicant, the above application fee shall be waived. An application shall be denied as incomplete unless all bills due have been paid in full.

(D) No application for site approval shall be deemed to have been filed or accepted for filing unless all of the requirements of this Chapter applicable thereto shall have been met. The County Clerk shall not give a receipt or other indication of filing until such time as it is determined that the application complies with the requirements of this Chapter. Within a reasonable period of time after delivery of an application, the County Clerk shall notify the applicant:

1. Either that the application is complete and that it has been accepted for filing, designating the date of filing; or
2. That the application is not complete, specifying wherein it is deficient.

(E) In order to give members of the public an opportunity to make informed written comment to Section 39.2 (c) of the Act (415 ILCS 5/39.2) an opportunity to prepare adequately and fairly for the public hearing hereinafter described, the applicant must fully comply with all application requirements as set forth in Section 31-1-3 entitled "Application". Failure to comply with said application requirements shall render information inadmissible at said public hearing.

(F) No request for site approval may be amended to add additional data or reports once the request for site approval has been filed with the County Clerk. However, an applicant may withdraw his request for site approval at least fourteen (14) days before the first scheduled hearing and may file a new request for site approval. Upon withdrawal of a request for site approval, any unexpected portion of the application fee shall be returned to the applicant. The refiling of a request for site approval puts into operation all the requirements set forth in this Chapter as pertains to any new request for site approval. (415 ILCS 5/39, 39.1, 39.2)

#### 31-1-4 County Review.

(A) Upon receipt of a copy of a request for site approval, the County Clerk shall notify the following County Departments of such receipts:

1. Chairman, County Board
2. Highway Department
3. State Attorney's Office

(B) The Chairman of the County Board shall be the officer responsible for coordinating review of the request for site approval and is authorized to call inter-departmental meetings and set deadlines for the submittal of reports and recommendations.

(C) The aforementioned departments may attend the public hearings and may ask questions as needed to assist in reaching their recommendations.

(D) The aforementioned departments are authorized to prepare and submit reports and recommendations in response to the request for site approval. Preliminary reports prepared by County Departments and retained consultants summarizing and analyzing the request for site approval, reports, studies, exhibits, and any written comments filed with the County Clerk, concerning the appropriateness of the proposed site, shall be filed with the County Clerk no later than two (2) days in advance of the date set for hearing. In the event that the tenth (10<sup>th</sup>) day prior to the date set for public hearing falls on a Saturday, Sunday, or holiday, the next working day shall be considered the day that reports shall be filed. Copies of departmental reports shall be available for public inspection in the office of the County Clerk. Members of the public shall be allowed to obtain copies of the reports upon payment of the actual cost of reproduction.

(E) The county departments and consultants retained by the County are authorized to present testimony at the public hearing as hereinafter described.

31-1-5 Other Parties. All reports, studies, exhibits, or other evidence or copies thereof, other than testimony, which any other person desires to submit for the record at the public hearing must be filed with the County Clerk at least ten (10) days before the public hearing and shall be available for public inspection at the office of the County Clerk. In the event that the tenth (10<sup>th</sup>) day prior to the date set for public hearing falls on a Saturday, Sunday, or holiday, the next working day shall be considered the day that reports, studies, and exhibits must be filed. The County Clerk shall date stamp any such reports, studies, exhibits, or other evidence upon receipt. In the case of documentary evidence, members of the public shall be allowed to obtain copies of said documents upon payment of the actual cost of reproduction.

31-1-6 Public Hearing.

(A) No sooner than ninety (90) days but no longer than one hundred twenty (120) days from the date of filing of the request for site approval with the County Clerk, a public hearing shall be held by the County Board. (415 ILCS 5/39.2)

(B) Eight (8) members shall constitute a quorum for the purpose of holding such a public hearing.

(C) Within ten (10) days of the working day of the date a completed request for site approval is filed, the Chairman of the County Board shall determine the date, time, and location upon which such public hearing shall be held, but in any event, the initial public hearing must be scheduled no sooner than ninety (90) days but no later than one hundred twenty (120) days from the date the request for site approval was filed with the County Clerk. (415 ILCS 5/39.2)

(D) In addition to formal notice required to be given by the applicant pursuant to the Illinois Environmental Protection Act, the Chairman of the County Board shall notify the County Clerk of the date upon which such hearing shall be held and shall request the County Clerk to cause notice of such hearing to be made as follows:

1. Published legal notice in a newspaper of general circulation published in the County at least once per week for three (3) successive weeks prior to the date set for hearing.

Such notice shall consist of the following:

(a) The name and address of the person, partnership, or corporation requesting site location approval

(b) The owner of the site and in case ownership is in a land trust, the names of the beneficiaries of said trust

(c) The legal description of the site

(d) The street address of the property, and if there is no street address applicable to the property, a description of the site with reference to location, ownership of occupants, or in some other manner that will reasonably identify the property to residents of the neighborhood

(e) The nature and size of the proposed development

(f) The nature of the activity proposed

(g) The probable life of proposed activity

(h) The time and date of the public hearing

(i) The location of the public hearing

(j) A statement of all copies of evidence other than testimony to be submitted at the public hearing must be filed with the County Clerk at least ten (10) days before the public hearing. (415 ILCS 5/39.2)

2. Certified mail to all members of the General Assembly from the district in which the proposed site is located.

3. Certified mail to the Illinois Environmental Protection Agency.

4. Certified mail to all municipalities and townships within one and one half (1 ½) miles of the proposed facility. (415 ILCS 5/39.3)

5. Certified mail to all property owners within one half (1/2) mile in each direction of the lot line of the subject property, as determined from the authentic tax records of Jefferson County, Illinois. (415 ILCS 5/39.3)

(E) The Jefferson County State's Attorney shall appoint the hearing officer for the public hearing on the request for site approval. The hearing officer shall be an attorney who has no interest with any party, whether the party be the applicant or affected member of the public. The hearing officer shall preside over the public hearing and shall make any decisions concerning the admission of evidence and the manner in which the hearing is conducted subject to this Chapter. The hearing officer shall make all decisions and rulings in accordance with fundamental fairness. The hearing officer may exclude irrelevant immaterial, incompetent or unduly repetitious testimony or other evidence. Any ruling of the hearing officer shall be appealable to the County Board.

(F) The applicant for site location shall have the burden of going forward with evidence of the suitability of the site location for the proposed use.

(G) Any person appearing at such public hearing shall have the right to give testimony and comment on the suitability of the site location for the proposed use. Any person shall have the right to be represented by an attorney at said public hearing. Opportunity for any persons appearing at such public hearing to cross-examine any witness shall be limited by the hearing officer.

(H) Conduct of the public hearing shall be substantially as follows:

1. Call to order
2. Introduction of the hearing committee and hearing officer
3. Recognition of the applicant and identification of the request for site approval
4. Recognition of fees, notices, and date of filing of the request for site approval
5. Recognition of the County and other parties willing to testify and any other reports, exhibits, maps, or other documents of record as filed pursuant to this Chapter. Expert witnesses expected to testify must sign in or submit written notification of said intent to the Chairman of the Jefferson County Board at least two (2) days prior to giving said testimony at the public hearing. Members of the public intending to testify must sign prior to testifying.
6. The applicant, the County, and other parties may make an opening statement.
7. The Board shall then hear testimony from the applicant and/or any witnesses the applicant may wish to call. Upon the close of the applicant's testimony, other parties may offer expert witnesses and any evidence they may wish to present. These parties may or may not be represented by counsel. Upon the close of the applicant's and other parties' testimony and evidence, the County may present any witnesses and evidence it wishes to present. Members of the public, of record, as set forth in Section IV (4) above may then present oral comment to the hearing committee. The hearing officer shall decide the order of presentation of testimony subject of this Chapter.
8. All witnesses shall testify under oath. Testimony may include the use of exhibits. All witnesses shall be subject to reasonable examination as follows: direct, cross-examination, redirect, re-cross, etc. After all parties have presented testimony, reasonable rebuttal, sur-rebuttal, etc., may be all allowed at the direction of the hearing officer.
9. Should any issues, facts, data or other evidence arise during the course of the public hearing, which were not apparent of reasonably foreseeable by a party from the request for site approval as filed with the County Clerk; such situation may constitute grounds for a recess in the public hearing for a period not to exceed five (5) working days.
10. Summary statements by applicant, other parties and the County, subject to limitations as imposed by the hearing officer.
11. Rebuttal statement, if any, by the applicant, subject to limitations as imposed by the hearing officer.
12. Hearing closed.

### 31-1-7 Public Comment.

(A) The County Clerk shall receive written comment from any person concerning the appropriateness of the proposed facility. Upon receipt of any such written comment the County shall date stamp same and file written comment and the postmarked envelope in which comment is received.

(B) Copies of such written comments shall be made available for public inspection in the offices of the County Clerk, and members of the public shall be allowed to obtain a copy of any written comment upon payment of actual cost of reproduction.

(C) Any written comment received by the County Clerk or postmarked no later than thirty (30) days after the date of the last public hearing shall be made part of the record at the public hearing as hereinafter described and the County Board shall consider any such timely written comments in making its final determination concerning said request. In the event that the thirtieth (30<sup>th</sup>) day falls on a Sunday, or a federal holiday, the next day on which mail is delivered shall be considered the thirtieth (30<sup>th</sup>) day for purposes of this paragraph. (415 ILCS 5/39)

### 31-1-8 Record.

(a) The County Clerk shall be responsible for keeping the record at said hearing.

(b) The record shall consist the following:

1. The request for site location approval.
2. Proof of notice.
3. Proof of notice given by applicant pursuant to Section 39.2 (b) of said Act. (415 ILCS 5/39.2)
4. Written comments filed by the public and received by the County Clerk or postmarked within thirty (30) days of receipts of the filing of a request for site location approval.
5. All reports, studies, exhibits, or documents received into evidence at the public hearing.
6. The transcript of the public hearing.
7. Findings of fact of the County Board.
8. The Resolution containing the final decisions of the County Board.

### 31-1-9 Site Approval Decision.

(A) After the public hearing and any continuation thereof, the Jefferson County Board shall hold a public review meeting for purposes of establishing findings of fact concerning the site approval request. Any findings of fact shall be supported by the record and shall be prepared within one hundred eighty (180) days from the County Clerk's receipt of the completed site approval request. (415 ILCS 5/39.2)

(B) In making its recommendation on the request for site approval, the County Board

shall base its decision on the following criteria:

1. The facility is necessary to accommodate the waste needs of the area it is intended to serve;
  2. The facility is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected;
  3. The facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of surrounding property;
  4. The facility is located outside the boundary of the one hundred (100) year flood plain as determined by the Illinois Department of Transportation, or the site is flood proofed to meet the standards and requirements of the Illinois Department of Transportation and is approved by the Department;
  5. The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents and;
  6. The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows.
  7. If the facility will be treating, storing, or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment, and evacuation procedures to be used in case of an accidental release.
  8. If the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such area have been met.
  9. If the facility is to be located in a county where the County Board has adopted a solid waste management plan, the facility is consistent with that plan. (415 ILCS 5/39.2)
- (C) The County Board may conditionally approve any request for site approval provided such conditions are not inconsistent with regulations promulgated by the Illinois Pollution Control Board. Any determination by the County Board shall be supported by the record.
- (D) No determination by the County Board of a site approval request may be reconsidered.

#### 31-1-10 Administration of Fees and Costs.

- (A) All expenses incurred by the County in conducting the review of the request for site approval, the subsequent hearing, and the site approval decision, shall be paid from the application fee as provided in this Chapter.
- (B) Upon termination of any proceedings under the hearing process, a final accounting and summary of all authorized expenditures and reimbursements shall be presented to the Fiscal Committee of the County Board for its audit and approval to recommend to the full Board in regular session.
- (C) Any portion of an application fee not required for reimbursement to the County for costs or expenses incurred by the County pursuant to this Chapter shall be returned to the

applicant. Should there be costs and/or expenses in excess of the amount paid by the applicant in the application fee, the applicant shall bear any and all additional costs.

(D) In order to properly administer the application fee received with respect to the hearing process and procedure set forth herein, the County Treasurer is hereby authorized and directed to receive and hold such application fees for administration subject to the review and approval of the County Board.

(E) In order to expedite payment of all bills incurred as a result of administering the hearing process, all bills and questions concerning billing should be directed to the Chairman of the County Board.

31-1-11 Invalidity of Clause or Other Portions – Severability of Remaining Portions. If any clause or other portion of the Chapter should be declared by any court to be invalid, said declaration shall not affect the validity of the remaining portions of the Chapter. It is hereby decreed that all such remaining portions of this Chapter are severable and the Jefferson County Board would have the power to enact such remaining portions that may be so held to be invalid had not been included in this Chapter.