

**CHAPTER 5.05
SANITARY LANDFILL AND WASTE
INCINERATOR SITING**

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PART 1 * GENERAL PROVISIONS

- 5.05.101 **TITLE:** This Ordinance shall be known and may be cited and referred to as the "Pottawattamie County, Iowa, Sanitary Landfill and Waste Incinerator Siting Ordinance". (Ordinance #92-2/June 19, 1992)
- 5.05.102 **PURPOSE:** The purpose of this Ordinance is to provide County rules and regulations pursuant to Chapter 455B, Code of Iowa, for local siting approval of proposed new sanitary landfills, incinerators or infectious medical waste incinerators within the County Pottawattamie, State of Iowa. (Ordinance #92-2/June 19, 1992)
- 5.05.103 **JURISDICTION:** The provisions of this Ordinance shall apply to all of the unincorporated territory of Pottawattamie County, Iowa. (Ordinance #92-2/June 19, 1992)
- 5.05.104 **APPLICATION OF REGULATIONS:** The regulations set by this Ordinance shall be applicable to proposed new sanitary landfills, incinerators or infectious medical waste incinerators. These regulations do not apply to the expansion of an existing sanitary landfill owned by a private agency which disposes of waste which the agency generals on property owned by the agency. (Ordinance #92-2/June 19, 1992)
- 5.05.105 **INTERPRETATION OF STANDARDS:** In interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Whenever the requirements of this Ordinance are at variance with the requirements of any lawfully adopted rules, regulations, ordinance, deed restriction, covenants, or other provisions of law, the most restrictive or that imposing the higher standards, shall govern. (Ordinance #92-2/June 19, 1992)

PART 2 * DEFINITIONS

- 5.05.201 **DEFINITIONS:** For the purpose of this Ordinance, the following terms and words are hereby defined. (Ordinance #92-2/June 19, 1992)
 - .01 **Commission:** The Environmental Protection Commission. (Ordinance #92-2/June 19, 1992)
 - .02 **Construction and Demolition Waste:** Waste building materials including wood, metals and rubble which result from construction or demolition of structures. Such waste shall also include trees. (Ordinance #92-2/June 19, 1992)
 - .03 **Construction and Demolition Waste Disposal Site:** A sanitary landfill which accepts only construction and demolition waste. (Ordinance #92-2/June 19, 1992)

- .04 **County:** Pottawattamie County, Iowa. (Ordinance #92-2/June 19, 1992)
- .05 **County Auditor:** The County Auditor of Pottawattamie County, Iowa. (Ordinance #92-2/June 19, 1992)
- .06 **County Board:** The Board of Supervisors of Pottawattamie County, Iowa. (Ordinance #92-2/June 19, 1992)
- .07 **County Zoning Ordinance:** The Pottawattamie County, Iowa, Zoning Ordinance. (Ordinance #92-2/June 19, 1992)
- .08 **Department:** The Iowa Department of Natural Resources. (Ordinance #92-2/June 19, 1992)
- .09 **Garbage:** All Solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substances from all public and private establishments and from all residences. (Ordinance #92-2/June 19, 1992)
- .10 **Incineration:** The processing and burying of waste for the purpose of volume and weight reduction in facilities designed for such use. (Ordinance #92-2/June 19, 1992)
- .11 **Incinerator:** Any enclosed device using controlled flame combustion that does not meet criteria for classification as a boiler and is not listed as an industrial furnace.

"Incinerator" does not include thermal oxidizers used for the treatment of gas emissions.

"Incinerator" shall, for the purpose of this Ordinance, be construed to mean only those burning devices which require an air emissions permit through the Iowa Department of Natural Resources. (Ordinance #94-7/October 14, 1994)
- .12 **Planning and Zoning Commission:** The Planning and Zoning Commission of Pottawattamie County, Iowa. (Ordinance #92-2/June 19, 1992)
- .13 **Private Agency:** An individual and any form of business organization authorized under the laws of this or any other state. (Ordinance #92-2/June 19, 1992)
- .14 **Refuse:** Putrescible and nonputrescible wastes including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleaning, market and industrial solid wastes and sewage treatment wastes in dry or semisolid form. (Ordinance #92-2/June 19, 1992)
- .15 **Rubbish:** Nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind. (Ordinance #92-2/June 19, 1992)
- .16 **Rubble:** Stone, brick or similar inorganic material. (Ordinance #92-2/June 19, 1992)

- 17 **Sanitary Disposal Project:** All facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director. *(Ordinance #92-2/June 19, 1992)*
- 18 **Sanitary Landfill:** (A) A method of disposing of solid waste on land by utilizing the principles of engineering to confine the solid waste to the smallest practical volume and to cover it with a layer of earth so that no nuisance or hazard to the public health is created; (B) A Sanitary disposal project where solid waste is buried between layers of earth. *(Ordinance #92-2/June 19, 1992)*
- 19 **Site:** Any location, place or trace of land used for collection, storage, conversion, utilization, incineration or burial of solid wastes. *(Ordinance #92-2/June 19, 1992)*
- 20 **Solid Waste:** Garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles as defined herein. *(Ordinance #92-2/June 19, 1992)*
- 21 **Trees:** Trunks, limbs, stumps, or branches from trees or shrubs and untreated, uncoated, chemically unchanged wood wastes. This shall not include wood products which are part of an otherwise defined waste or have been contaminated by coatings, treatments or metals. *(Ordinance #92-2/June 19, 1992)*
- 22 **Vehicle:** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway.
 "Vehicle" does not include:
- A. Any device moved by human power.
 - B. Any device used exclusively upon stationary rails or tracks.
 - C. Any integral part of a truck tractor or road tractor immediately behind the cab and which may be used to transport persons and property but which cannot be drawn upon the highway by the truck tractor or another motor vehicle. *(Ordinance #92-2/June 19, 1992)*
- .01 An affidavit, signed and sworn by the applicant stating that fourteen (14) days prior to filing a request for siting approval, the applicant has caused written notice of the request to be served either in person or by restricted certified mail on the owners of all property within the proposed local site area not solely owned by the applicant and on the owners of all property within two (2) miles in each direction of the lot line of the proposed local site property. Said written notice shall contain information as set forth in Subsection 5.05.302.02A through 5.05.302.02G. The affidavit shall list the name and mailing address of each said property owner and shall be accompanied by a copy of said written notice. *(Ordinance #92-2/June 19, 1992)*
- .02 A copy of the proof of publication showing that fourteen (14) days prior to filing a request for siting approval that written notice was published in all official newspapers of the County, in accordance with Section 455B.305A.3. Said written notice shall contain the following information: *(Ordinance #92-2/June 19, 1992)*
- A. The name and address of the applicant.
 - B. The legal description of the property proposed for the project.
 - C. The nature and size of the development.
 - D. The nature of the activity proposed.
 - E. The probable life of the proposed activity.
 - F. The date when the request for site approval will be submitted to the County Board.
 - G. A description of the right of persons to comment on the request. *(Ordinance #92-2/June 19, 1992)*
- .03 Documentation sufficient to establish that the criteria listed in Section 5.05.501, except Subsection 5.05.501.07, has been met. *(Ordinance #92-2/June 19, 1992)*
- .04 The substance of the applicant's proposal, which shall include but not be limited to proposed developmental plan of the site and off-site improvements, such as upgrading of roads, if so proposed. *(Ordinance #92-2/June 19, 1992)*
- .05 Documentation that the local site approval requests has been transmitted to the Department. *(Ordinance #92-2/June 19, 1992)*
- .04 At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for questioning by the County Board, the applicant may file not more than (1) amended application upon payment of additional fees pursuant to Section 5.05.602.02. *(Ordinance #92-2/June 19, 1992)*
- .05 The time limitation for final action on an amended application shall be extended for an additional ninety (90) days. *(Ordinance #92-2/June 19, 1992)*
- .06 Any person may file written comments with the County Board concerning the appropriateness of the proposed site for its intended purpose. The County

PART 3 * APPLICATION

- 5.05.301 **LOCAL SITE APPROVAL REQUIRED:** Prior to the siting of a proposed new sanitary landfill, incinerator or infectious medical waste incinerator, a city, county or private agency shall submit a request for local siting approval to the County Board. *(Ordinance #92-2/June 19, 1992)*
- 5.05.302 **APPLICATIONS FOR LOCAL SITING APPROVAL:** All applications for local siting approval of the proposed new sanitary landfill, incinerator or infectious medical waste incinerator shall be filed with the County Board on approved forms, together with a filing fee as specified in Section 5.05.602 and shall be accompanied by seven (7) copies of the following documentation: *(Ordinance #92-2/June 19, 1992)*

Board shall consider any comment received or postmarked not later than thirty (30) days after the date of the last public hearing. (Ordinance #92-2/June 19, 1992)

5.05.505 **EXPIRATION OF PERMIT:** Construction of a project which is granted local siting approval under this Ordinance shall commence within one calendar year from the date upon which it was granted or the permit shall be nullified. If the local siting approval is appealed, the one-year period shall begin on the date upon which the appeal process is concluded. (Ordinance #92-2/June 19, 1992)

5.05.304 **REAPPLICATION:** If any application for local siting approval has been denied by the County Board, then an applicant shall not file a request for local siting approval which is substantially the same as a request which was denied within the preceding two (2) years pursuant to a finding against the applicant under the established criteria. (Ordinance #92-2/June 19, 1992)

PART 4 * PUBLIC HEARING

5.05.401 **PUBLIC HEARING:** Before taking final action on an application, the County Board shall hold a public hearing thereon, no sooner than ninety (90) days but no later than one hundred twenty (120) days from receipt of the request for siting approval. Notice of a public hearing shall include the time and place of said public hearing and the place where the contents of the application may be examined, and shall be given in the following manner: (Ordinance #92-2/June 19, 1992)

.01 A notice of the public hearing shall be given by one (1) publication in all official newspapers of the County, not less than fifteen (15) days prior to the date of the public hearing. (Ordinance #92-2/June 19, 1992)

.02 An additional written notice shall be given to the property owners, contained in the statement included as a required part of the application, by placing said notice in the United States Mail, not less than ten (10) days prior to the date of the public hearing. (Ordinance #92-2/June 19, 1992)

A. For mailing purposes, the names and addresses of such property owners shall be taken from the records of the County Auditor. (Ordinance #92-2/June 19, 1992)

B. It shall be the intent of the Subsection to give as full and adequate notice as practicable to the persons substantially interested in the appeal; however, failure to send notice to a person to receive said notice shall not invalidate any decision of the County Board provided such failure was not intentional. (Ordinance #92-2/June 19, 1992)

.03 The County Board may recess a hearing in order to serve further notice upon other property owners or persons that the County Board determines may be interested in the appeal or to obtain additional information. Upon recessing for this purpose, the County Board shall announce the time and date when said hearing will be resumed. (Ordinance #92-2/June 19, 1992)

.04 The public hearing shall develop a record sufficient to form the basis of an appeal of the decision. (Ordinance #92-2/June 19, 1992)

PART 5 * LOCAL SITING DECISION

5.05.501 **SITING CRITERIA:** The County Board, in its determination upon a particular local siting application, shall grant said site approval only if the proposed project meets all of the following criteria: (Ordinance #92-2/June 19, 1992)

.01 The project is necessary to accommodate the solid waste management needs of the area which the project is intended to serve. (Ordinance #92-2/June 19, 1992)

.02 The project is designed, located and proposed to be operated so that the public health, safety and welfare will be protected. (Ordinance #92-2/June 19, 1992)

.03 The project is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property. The County Board shall consider the Planning and Zoning Commission's advice on this subsection, as provided in the Subsection 5.05.502 and 5.05.503. (Ordinance #92-2/June 19, 1992)

.04 The plan of operations for this project is designed to minimize the danger to surrounding area from fire, spills and other operational accidents. (Ordinance #92-2/June 19, 1992)

.05 The traffic patterns to and from the project are designed in order to minimize the impact on existing traffic flows. (Ordinance #92-2/June 19, 1992)

.06 Information regarding the previous operating experience of a private agency applicant and its subsidiaries or parent corporation in the area of solid waste management or related activities are made available to the County Board. (Ordinance #92-2/June 19, 1992)

.07 The Department of Natural Resources has been consulted by the County Board prior to the approval. (Ordinance #92-2/June 19, 1992)

.08 The utilization of the property proposed for the project is in harmony with the intent, purpose and spirit of the Pottawattamie County, Iowa, Zoning Ordinance and the County's Land Use Plan. (Ordinance #92-2/June 19, 1992)

.09 The property is situated in the appropriate zoning district and meets the lot size and coverage requirements for such a use, as set forth in the County Zoning Ordinance. (Ordinance #92-2/June 19, 1992)

5.05.502 **PUBLIC MEETING BY PLANNING AND ZONING COMMISSION:** Before transmittal of advice, as required by Subsection 5.05.501.03, to the County Board, the Planning and Zoning Commission shall tour the property proposed for a new sanitary landfill, incinerator or infectious medical waste incinerator as well as the area surrounding the site. Following the tour, the Planning and Zoning Commission shall at a public meeting review the application, as it relates to the provisions of Subsection 5.05.501.03. (Ordinance #92-2/June 19, 1992)

- .01 Any person may file written comments, relative to Subsection 5.05.501.03, with the Planning and Zoning Commission. Said comments shall be received in the Office of the County Board no less than ten (10) days prior to such public meeting. *(Ordinance #92-2/June 19, 1992)*

The Planning and Zoning Commission shall consider said comments when formulating said advice for the County Board. *(Ordinance #92-2/June 19, 1992)*

- .02 At the discretion of the Planning and Zoning Commission, oral comments relative to Subsection 5.05.501.03 may be heard from the applicant or any person opposed to the application. *(Ordinance #92-2/June 19, 1992)*

5.05.503 PLANNING AND ZONING COMMISSION ADVICE: Following such public meeting the Planning and Zoning Commission shall advise the County Board if the project is located so as to minimize incompatibility with the character of the surrounding property. Said advice shall be transmitted by the Planning and Zoning Commission to the County Board, not later than ninety (90) days after the application has been filed with the County Board. *(Ordinance #92-2/June 19, 1992)*

5.05.504 DECISION OF THE COUNTY BOARD: The County Board shall have the power to hear and decide applications for a proposed, new sanitary landfill, incinerator or infectious medical waste incinerator, as so authorized by Chapter 455B, Code of Iowa. In exercising these powers, the County Board shall approve or disapprove the site for each new sanitary landfill, incinerator or infectious medical waste incinerator. *(Ordinance #92-2/June 19, 1992)*

- .01 Decisions of the County Board shall be in writing, specifying the reasons for the decision, along with any conditions imposed by the County Board. *(Ordinance #92-2/June 19, 1992)*
- .02 The written decision of the County Board shall be available for public inspection at the Office of the County Board and may be copied upon payment of the actual cost of reproduction. *(Ordinance #92-2/June 19, 1992)*
- .03 Final action shall be taken by the County Board within one hundred eighty (180) days after the filing of the request for site approval, except as provided in Subsection 5.05.504.05. *(Ordinance #92-2/June 19, 1992)*
- .04 At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for questioning by the County Board, the applicant may file not more than (1) amended application upon payment of additional fees pursuant to Section 5.05.602.02. *(Ordinance #92-2/June 19, 1992)*
- .05 The time limitation for final action on an amended application shall be extended for an additional ninety (90) days. *(Ordinance #92-2/June 19, 1992)*
- .06 Any person may file written comments with the County Board concerning the appropriateness of the proposed site for its intended purpose. The County Board shall consider any comment received or postmarked not later than thirty (30) days after the

date of the last public hearing. *(Ordinance #92-2/June 19, 1992)*

5.05.505 EXPIRATION OF PERMIT: Construction of a project which granted local siting approval under this Ordinance shall commence within one calendar year from the date upon which it was granted or the permit shall be nullified. If the local siting approval is appealed, the one-year period shall begin on the date upon which the appeal process is concluded. *(Ordinance #92-2/June 19, 1992)*

PART 6 * FEES

5.05.601 **FILING FEE REQUIRED:** A filing fee in accordance with the established fee schedule shall be charged for each application to assist in deferring the cost of administrative review and legal publications. The applicant shall be responsible for submitting the required filing fee upon submission of the completed application. No action shall be taken on any application until the required fee is paid in full. *(Ordinance #92-2/June 19, 1992)*

5.05.602 **FEE SCHEDULE:** The fee schedule as set forth in Chapter 1.50 is hereby established for matters pertaining to this Ordinance. *(Ordinance #94-6/July 22, 1994)*

5.05.603 **FEE REFUND:** Whether the request is approved or disapproved by the County Board, the applicant shall not be entitled to a refund of the fee paid. *(Ordinance #92-2/June 19, 1992)*