

HAMILTON COUNTY SOLID WASTE MANAGEMENT DISTRICT RULES

PROHIBITING THE CONSTRUCTION, ENLARGEMENT, OR MODIFICATION OF SOLID WASTE TRANSFER AND DISPOSAL FACILITIES PRIOR TO OBTAINING DISTRICT APPROVAL OF GENERAL PLANS AND SPECIFICATIONS

I. Authority

These Rules have been authorized by the Hamilton County Solid Waste Management Plan, and are adopted, published and enforced pursuant to the authority provided in Ohio Revised Code Sections 343.01(G)(2) and 3734.53(C)(2).

II. Applicability

These Rules shall be applicable to all existing or proposed Solid Waste Facilities located within the District that Transfer or Dispose Solid Waste, except compost facilities, legitimate recycling facilities, or other Solid Waste Facilities that are otherwise excluded by Ohio law.

III. Definitions

"Applicant" means any person who has submitted an Improvement Plan for the construction, enlargement, or modification of, any Solid Waste Transfer or Disposal Facility to the Board for its approval pursuant to these Rules.

"Board" or "Board of County Commissioners" means the Board of County Commissioners of the Hamilton County Solid Waste Management District.

"Compliance Report" means the report required to be submitted under these Rules by an Applicant seeking to construct, Enlarge or Modify any Solid Waste Transfer or Disposal Facility within the District.

"Disposal" shall have the meaning set forth in Ohio Revised Code Section 3734.01(F).

"District" means the Hamilton County Solid Waste Management District.

"Enlargement" or "Enlarge" means, in the case of a Transfer Facility, an increase in the capacity of the facility beyond the permit, or other authorization, issued for the facility by the OEPA; and, in the case of Solid Waste Disposal Facility, means a horizontal or vertical increase in the size of the facility, or increase in the area of waste placement beyond the limits approved in the permit, or other authorization, issued for the facility by the OEPA.

"Improvement Plan" means the plan required to be submitted under these Rules by an Applicant seeking to construct, Enlarge or Modify any Solid Waste Transfer or Disposal Facility within the District.

"Incineration" means the use of controlled combustion to thermally break down Solid Waste.

"Incinerator" means any equipment, machine, device, article, contrivance, structure, or part of a structure, used to burn Solid Waste.

"Landfill" or "Sanitary Landfill" means an engineered facility where the final disposition of Solid Waste is practiced in accordance with federal and state law, including areas of Solid Waste placement, all ground water monitoring/ control system structures, buildings, explosive gas monitoring/ control/ extraction system structures, surface water run-on and runoff control structures, sedimentation pond(s), liner systems, Leachate management system structures, and areas within the three hundred foot radius from the limits of Solid Waste placement and all areas within the property lines of land owned or leased for the Landfill facility.

"Leachate" means liquid that has come into contact with or been released from Solid Waste.

"Modification" or "Modify" when used with respect to a Solid Waste Transfer or Disposal Facility, means: (i) any substantial change in total capacity, finished topography or depth of excavation; or (ii) any substantial change in the operation of the facility that involves a change in the type of Solid Waste or other waste materials received, the manner of delivery, the type of equipment used, or the process utilized at or in the facility which may have a material adverse impact on County-level interests described in section (V)(A)(2) in this Rule; (iii) a change in the authorized maximum daily waste receipt established for the facility; or (iv) any other substantial change that requires the approval of the Director of OEPA.

"OEPA" means the Ohio Environmental Protection Agency.

"Person" shall have the meaning set forth in Ohio Revised Code Section 3734.01(G).

"Plan" means the Solid Waste Management plan of the Hamilton County Solid Waste Management District.

"Policy Committee" means the solid waste management Policy Committee of the Hamilton County Solid Waste Management District.

"Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting Solid Waste that would otherwise be disposed in a Solid Waste Disposal Facility and returning reconstituted materials to commerce as commodities for use or exchange.

"Recycling Facility" or "Legitimate Recycling Facility" shall have the same meaning as set forth in Ohio Administrative Code 3745-27-01(L)(2). A Recycling Facility does not include a Solid Waste Disposal Facility nor a waste tire disposal facility.

"Resource Recovery Facility" means a facility that extracts, removes or reclaims valuable materials and/or energy from Solid Wastes or any combination of structures, machinery or devices utilized to separate, process, modify, convert, treat, or prepare collected component materials or substances or recoverable resources may be recovered or used as a new material or energy sources.

"Rules" means the Rules that have been adopted, published and are to be enforced pursuant to the authority provided in Ohio Revised Code Sections 343.01(G)(2) and 3734.53(C)(2).

"Solid Waste" or "Solid Wastes" shall have the meaning as set forth in Ohio Revised Code Section 3734.01 (E).

"Solid Waste Disposal Facility" means any site, location or tract of land, installation or building used for Incineration, Sanitary Landfilling, or other methods of disposal of Solid Wastes.

"Solid Waste Transfer Facility" shall have the meaning set forth in Ohio Revised Code Section 3734.01(U).

"Surface Water" or "Surface Waters" means any water on the surface of the earth.

"TAC" or "Technical Advisory Council" means the Technical Advisory Council of the Hamilton County Solid Waste Management District as it may from time to time be established and appointed by the Policy Committee pursuant to Ohio Revised Code Section 3734.54(F).

"Yard Waste" means solid waste that includes only leaves, grass clippings, brush, garden waste, tree trunks, holiday trees, tree trimmings and/or pruning.

IV. Submission of Improvement Plan

A. No Person shall construct, Enlarge or Modify, any Solid Waste Transfer or Disposal Facility within the District until an Improvement Plan setting forth the general plans and specifications for the proposed project have been submitted to and approved by the Board as complying with the Plan in accordance with these Rules. Copies of the Improvement Plan for the proposed project, together with the Compliance Report required pursuant to section V(C) of these Rules, shall be submitted to and approved by the Board before commencing construction of a new, Enlargement or Modification of a Solid Waste Transfer or Disposal Facility.

B. Each Person proposing to construct a new Solid Waste Transfer or Disposal Facility or proposing to Enlarge or Modify an existing Solid Waste Transfer or Disposal Facility, shall submit the original, a copy and an electronic copy of the Improvement Plan for the proposed project, together with the Compliance Report described in section V herein. Such Improvement Plan shall contain all the information required in section V(C), so that the Board can determine whether the criteria set forth in sections V(A) and V(B) herein, are satisfied.

The Improvement Plan shall set forth general plans and specifications for the proposed construction, enlargement or modification of a Solid Waste Transfer of Disposal Facility, that are prepared by professional engineers, architects, surveyors, geologists and other professionals as required by these Rules or as requested by the Board, and shall include, but is not limited to, the following documents and information:

1. **Type of Solid Waste Facility:** A description of the type of Solid Waste Facility proposed to be constructed or modified, including: the equipment and technology to be used (e.g. automated systems, delivery and unloading systems, mixed waste processing, waste stabilization, etc.); the materials to be accepted at the Solid Waste Facility (e.g., asbestos, construction and demolition debris, automobile shredder residue, exempt waste (specify type), industrial solid waste; municipal solid waste, residual solid waste, source separated recyclables).
2. **Site Plan Map:** A site plan showing the placement, height, and size of all natural and man-made features and buildings to be constructed or modified at the proposed site; all proposed means of vehicle ingress and egress to and traffic within the proposed site; the location and dimensions of proposed parking areas, location of abutting public streets, arterial streets, highways, county and township roads; the location and description of public utilities located on the site or within 300 feet of the property boundaries of the site, including water, sewer, gas, electric, and any underground gas, petroleum, or petrochemical pipelines; and the location and nature of development located within 1,000 feet of the property boundaries of the site.
3. **Drawings:** Architectural drawings or artist's renderings of the proposed Solid Waste Facility with sufficient detail to depict the appearance of the proposed Solid Waste Facility upon completion of construction or modification and, in the case of a landfill, surface contours (gradients) both at the start of operation and upon final closure.
4. **Survey:** A survey by a registered surveyor showing: the location of the principal Solid Waste Facility; all proposed Solid Waste management units and supporting or ancillary buildings or structures; the distance from each such unit or improvement to the property lines of the site; and a contour map of the site including existing elevations of the Solid Waste Facility and the approximate final grade and elevations to be established following completion of the disposal areas, if disposal is the proposed use, and the grade and elevation of any proposed buildings or structures to be constructed at the Solid Waste Facility.
5. **Size and Capacity:** The projected size (daily and annual volumes, Authorized Maximum Daily Waste Receipts or processing capacity) of the proposed Solid Waste Facility including, in the case of a landfill, the proposed phases for development (construction) of disposal capacity and the corresponding acreage for each such phase.
6. **Landscaping:** A landscaping plan showing all proposed temporary and permanent landscaping, fencing, berms, and buffers at the Solid Waste Facility.
7. **Lighting:** A lighting plan showing all proposed exterior lighting for structures, onsite roadways, gates, and fencing, and identifying the lighting type, height, intensity, and shielding.

8. Utility Plan: A plan outlining the necessary public utility services for the proposed Solid Waste Facility including the proposed vendor or public entity provider of such necessary public utility services.

9. Traffic or Transportation Plan: A plan showing the proposed routes and alternative routes to and from the proposed Solid Waste Facility and the types and anticipated number and weight of transfer and direct haul vehicles utilizing the proposed Solid Waste Facility, including identification of the routes to be used when transfer vehicles, direct haul vehicles, rail cars or other modes of transportation either enter the District to deliver Solid Waste or transport Solid Waste generated within the District to the Solid Waste Facility.

10. Hours of Operation: Identification of the proposed Solid Waste Facility's hours of operation including the projected date for commencement of operation.

11. Anticipated Source of Solid Waste and Recyclable Materials: (a) identification of the types of commercial, industrial, agricultural, residential and institutional generators of Solid Waste and other waste materials that are expected to use the Solid Waste Facility and an estimate of the ratio of in-District-generated Solid Waste to the total quantity of Solid Waste that will be disposed, received, treated, stored or processed at the proposed Solid Waste Facility; (b) an estimate of the types and quantity of materials other than Municipal Solid Waste (e.g., construction and demolition debris, contaminated soil, asbestos, automobile shredder residue, and exempt waste) that will be disposed, received, treated, stored, or processed at the proposed Solid Waste Facility; (c) an estimate of the types and quantity of Solid Waste and other materials that will be delivered to the facility by rail; and (d) if recycling activities will be conducted at the proposed Solid Waste Facility, a detailed description of such recycling activity, including all materials to be recycled, technology to be utilized and anticipated percentage of Solid Waste reduction and recyclable materials to be recovered as a result of the operation of the proposed Solid Waste Facility, and the anticipated amount of residual waste that will be generated.

12. Control of On-site Debris: A description of Applicant's proposed management and control procedures to minimize the potential for debris to and from the Solid Waste Facility being deposited on arterial streets and county and township roads.

13. Other Relevant Information: Any other information the Applicant considers necessary for the Board to evaluate in determining whether the proposed Solid Waste Facility complies with each of the criteria specified in these rules.

C. Upon receipt of the Improvement Plan and Compliance Report, or a modification thereto as authorized by section IV(F) of these Rules, the Board shall promptly:

1. Distribute a copy electronically to each member of the Policy Committee. With the advice and assistance of the TAC, if then established, the Policy Committee shall review the proposed project or modified proposed project for its compliance with the Plan. The Policy Committee shall render its non-binding recommendation to the Board, and explain the basis for its recommendation, at the public hearing to be convened in accordance with section IV(D) of these Rules.

2. Prepare and publish a public notice which describes the proposed project or modified proposed project, specifies the location where the Improvement Plan and Compliance Report, including revisions thereto, are available for review, and establishes a period of no less than thirty (30) days for comments concerning the proposed project or modified proposed project and its compliance with the Plan. The notice required by this section shall be published in at least one newspaper, but in any event, it shall be published in a sufficient number of newspapers so that publication of the notice is generally circulated throughout Hamilton County.

3. Provide a copy of the public notice described in section IV(C)(2) and, if applicable section IV(F) of these Rules to the legislative authority of each of the municipal corporations and townships within the District.

D. Within fifteen (15) calendar days after the close of the written comment period, as provided in section IV(C)(2), the Board shall conduct a public hearing concerning the proposed project and its compliance with the Plan. At the hearing, the Applicant shall have an opportunity to make a presentation to the Board concerning the proposed project and its compliance with the Plan; the Policy Committee shall render its non-binding recommendation to the Board regarding the proposed project's compliance with the Plan; and the Board shall entertain the comments of interested persons.

E. At least seven (7) calendar days, and no more than twenty (20) calendar days, prior to the public hearing required by section IV(D), the Board shall publish a public notice containing the date, time and place of the public hearing, and where the Improvement Plan and Compliance Report regarding the proposed project are available for public review. The notice required by this section shall be published in a sufficient number of newspapers in Hamilton County so that publication of the notice required by section IV(C)(2) was made.

F. Within three (3) business days of the close of the public hearing provided for in section IV(D), the Applicant shall have the right to notify the Board in writing of its decision to modify its proposed project. If the Applicant notifies the Board of its intent to modify its proposed project, the Board shall retain all materials pertaining to the original proposed project pending modification for up to thirty (30) days. The Applicant shall then submit to the Board a revised Improvement Plan setting forth the modified proposed project, together with a revised Compliance Report that includes a summary describing the modifications made to the proposed project. The Board shall promptly distribute copies and provide public notification and review of such revised documentation in accordance with Section IV(C) unless the Board determines, following public notice of its decision to waive such requirements, that the modification(s), as applicable, is not of a sufficiently substantive and

significant nature to warrant further public review. The Board shall have ninety (90) days to determine whether the modified proposed project complies with the Plan following either the public hearing held to address the modified proposed project or its determination to waive further public review. The Board's decision shall be in writing and shall include an explanation of the basis for the determination.

If, at the close of the third business day following the public hearing described in IV(D) the Board has not received written notification from the Applicant of the Applicant's election to modify the proposed project, or if it does notify the Board that it plans to modify the proposed project but fails to do so within thirty (30) days thereafter, the Board shall have ninety (90) days to determine whether the proposed project complies with the Plan. The Board's determination shall be in writing and shall include an explanation of the basis for the determination.

V. Compliance Report

A. Any person proposing to construct, Enlarge or Modify any Solid Waste Transfer or Disposal Facility shall, before commencing construction of a new, Enlargement, or Modification of the Facility, submit and obtain the Board's approval of an Improvement Plan as required by these Rules, together with a written Compliance Report which will allow the Board to determine that:

1. The proposed project does not compete with or inhibit the financing, use or operation of proposed or existing solid waste management programs or facilities developed by or on behalf of the District;

2. To the maximum extent practicable as determined by the Board of County Commissioners, the proposed project avoids or mitigates material adverse impacts on the local community in Hamilton County with respect to any of the following County-level interests:

- The local economy, including but not limited to, effects on waste management costs/benefits, job creation, public revenues/expenditures, and real property values.
- Licensing, inspection, and enforcement responsibilities of the local health department having jurisdiction over the proposed facility (Hamilton County Public Health Department, Cincinnati Health Department, Norwood Health Department, or Springdale Health Department).
- Capabilities and resources of local law enforcement and emergency response officials.
- Related infrastructure, including but not limited to, increased demand, potential damage, maintenance, upkeep for and risks to thoroughfares and transportation, public utilities, and other infrastructure.

- Local related quality of life issues, including but not limited to, noise, litter, odors, nuisances, lighting, landscaping.
- Local political subdivisions.
- Important historic or cultural features.
- Local hunting, fishing, and recreational activities.
- Compatibility with County comprehensive plan, land use ordinances, township zoning resolutions, county rural zoning resolutions, and existing land uses.

B. The Board shall approve the Improvement Plan as complying with the Plan only if it determines that the proposed project does not compete with or inhibit the financing, use or operation of proposed or existing solid waste management programs or facilities developed by or on behalf of the District; that the proposed project avoids or mitigates material adverse impacts on the County-level interests described in section V(A)(2), above, to the maximum extent practicable. In determining whether the proposed project complies with the Plan, the Board shall give due consideration to the Improvement Plan and Compliance Report submitted by the Applicant, the Applicant's presentation at the public hearing, the non-binding recommendation of the Policy Committee, written comments submitted by persons pursuant to section IV(C)(3) and, if applicable, section (IV)(F), and comments made at the public hearing convened pursuant to section IV(D).

C. Together with the Improvement Plan, the Applicant shall submit to the Board a Compliance Report containing sufficient information so that the Board can determine whether the standards and criteria set forth in section V(A) and V(B) are satisfied. The Compliance Report shall contain, at a minimum, that information described in sections V(C)(1), (2), and (3) herein.

1. The Compliance Report shall include an analysis which describes the effects of the proposed project on the District's existing solid waste management infrastructure and programs, including, without limitation, the effect of the proposed project on financing implementation of the District's Plan and the use or operation of existing or proposed facilities or programs developed by or on behalf of the District. In particular, but without limitation; the Compliance Report shall describe the effects and impacts of the proposed project in light of the following:

- a. the maximum capacity of the proposed project;
- b. the minimum daily volume of waste which will need to be received at the proposed project in order to operate without financial loss;
- c. the proposed project's relationship to existing or proposed solid waste management programs or facilities that have been or will be developed by or on behalf of the District, and pursuant to which solid waste generated within the District will be managed in accordance with the Plan;

d. the proposed project's relationship to existing or proposed source separation and recycling activities within the District; and

e. the proposed project's relationship to existing or proposed regional initiatives for the management of solid waste.

2. The Compliance Report shall also include an analysis describing the impacts and effects of the proposed project on the local (County-level) environment, health, safety, economic and social impacts. In particular, but without limitation, the Compliance Report shall describe the effects and impacts of the proposed project in light of the following:

a. acreage involved in the proposed project;

b. soil types at the proposed project site, and their current use;

c. proximity of the proposed site to any nearby building, site or district listed on the State or National Register of Historic Places;

d. hunting, trapping or fishing and any recreational opportunities currently available near the site;

e. Surface Waters on or near the site;

f. traffic impacts related to the proposed project (during and after development);

g. amounts and types of vegetation to be permanently removed from the site;

h. odors to be produced by the proposed project and impact on the community;

i. noise to be produced by the proposed project and impact on the community;

m. the proposed project's compatibility with land use ordinances, township zoning resolutions, county rural zoning resolutions, and existing land uses at the proposed site and within one-quarter mile from the Facility's property line;

n. the proposed project's increased demand on community-provided services (e.g. fire, police, and emergency services);

- o. the proposed project's increased demands on the community's sewer capacity;
- p. the projected impacts on real property values in the District;
- q. the projected impacts on job opportunities and tax revenues in the District;
- r. the projected impacts on population distribution and community growth in the District;
- s. impacts on aesthetics, particularly the visual sightlines from adjacent public roadways and nearby domiciles and previous uses of site;
- t. the measures to be taken by the Applicant to ensure worker and community safety.

The analysis of the foregoing contained in the Compliance Report shall be sufficient to allow the Board to understand the environmental, health, safety, and socioeconomic impacts or effects of the proposed project on the local community and the District to enable the Board to determine whether the proposed project complies with the Plan pursuant to the criteria set forth in Section V(B), above.

Nothing in these Rules is intended to establish solid waste facility design standards or be inconsistent with the solid waste provisions of Chapter 3734. of the Revised Code and the rules adopted under those provisions.

VI. Submission of OEPA Materials to Policy Committee

In addition to the other requirements of these Rules, any Person who obtains from OEPA a permit to install a Solid Waste Transfer, Disposal, Recycling or Resource Recovery Facility in the District shall provide to the Policy Committee a copy of all plans, specifications, and other materials submitted to the OEPA, whether such materials were submitted as part of the permit to install application process, or are required to be submitted to OEPA pursuant to the permit to install.

VII. Notice of Intent to Close Required

No less than 180 days prior to the anticipated date on which the owner of a Solid Waste Transfer, Disposal, Recycling or Resource Recovery Facility intends to cease accepting waste at that facility, the facility owner, or an authorized representative, shall provide to the Board, by certified mail, notice of the anticipated date on which the Solid Waste Transfer, Disposal, Recycling or Resource Recovery Facility will cease accepting Solid Waste.

VIII. Penalties, Prosecution

A. Whoever violates any provision of these Rules shall be fined not more than five thousand dollars (\$5,000) for each offense. Each separate day of each violation is a separate offense.

B. The prosecuting attorney of Hamilton County is hereby authorized, upon the request of the Board, to prosecute the termination or bring a civil action for appropriate relief against any person that has violated, is violating, or is threatening to violate any of these Rules. This shall include an action in the Court of Common Pleas seeking a temporary restraining order or a temporary or permanent injunction, upon a showing that the person against whom the action is brought has violated, is violating, or is threatening to violate any of these Rules.

C. All fines imposed under this section shall be deposited in the District's special fund maintained pursuant to ORC section 3734.57.

IX. Severability

The provisions of these Rules shall be severable, and if any section, clause or portion thereof, or the applicability thereof to any person or circumstance be invalidated, the remainder of these Rules shall not be affected. If any provision of these Rules is ruled invalid by any court of competent jurisdiction, such decision shall not affect the validity of any other provision hereof. Additionally, in the event any provision hereof is determined to be a facility design standard within the meaning of ORC § 343.01(G)(2) or is determined to be inconsistent with the solid waste provisions of Chapter 3734 of the Revised Code and the rules adopted under those provisions, then such provision shall not be considered in the Board's review of any proposed Solid Waste Facility under these Rules.

X. Effective Date

These Rules shall be effective immediately.