

ORDINANCE NO. 11-92

IN THE MATTER OF:

AN ORDINANCE TO ESTABLISH REGULATIONS GOVERNING THE SITING OF HAZARDOUS WASTE TREATMENT AND STORAGE FACILITIES SO THAT SUCH PLACEMENT OF SUCH FACILITIES WILL PREVENT LAND, AIR, AND WATER POLLUTION AND CONSERVE THE NATURAL ECONOMIC AND ENERGY RESOURCES OF MASON COUNTY.

WHEREAS, the Washington State Legislature has amended the Hazardous Waste Management Act, Chapter 70.105 RCW, requiring zoning for hazardous waste treatment and storage facilities.

WHEREAS, Mason County is required by the Act to designate eligible geographical areas for the siting of hazardous waste treatment and storage facilities.

WHEREAS, an ordinance is required to be adopted by April 22, 1991.

WHEREAS, the public has been legally notified of the official control with press release, legal notices, and site specific letters.

WHEREAS, The Planning Commission of Mason County held a series of public workshops and a public hearing on December 16, 1991 to consider all testimony and exhibits filed regarding the siting hazardous waste treatment and storage facilities.

WHEREAS, The Planning Commission of Mason County has reviewed the all testimony and exhibits and hereby recommends approval of the ordinance.

WHEREAS, the Board of Mason County Commissioners held a public hearing on January 28, 1992, for the purpose of taking public testimony, reviewing the Planning Commission recommendation, and to deliberate on action to be taken.

NOW, THEREFORE, BE IT HEREBY ORDAINED, that the Board of Mason County Commissioners hereby ADOPTS the Mason County Hazardous Waste Treatment and Storage Facilities Siting Ordinance as follows:

HAZARDOUS WASTE TREATMENT AND STORAGE
FACILITIES SITING ORDINANCE

MASON COUNTY

SECTION 1.0
STATEMENT OF PURPOSE

The purpose of this ordinance is to establish regulations governing the placement of Hazardous Waste Treatment and Storage Facilities so that placement of such facilities will prevent land, air, and water pollution and conserve the natural economic and energy resources of the county.

SECTION 2.0
DEFINITIONS

The words and phrases defined in this section shall have the meanings indicated when used in this ordinance unless the text clearly states otherwise.

"ACCESSORY USE" means a use of land or of a building customarily incidental and subordinate to the principle use of the land or building on the same lot.

"BOARD" means the Board of Mason County Commissioners.

"CONSTRUCTION" means the act of assembling parts, or any action of building, which will lead to the formation of a structure. Also, the grading of materials into a formation such as mounds, piles, or other masses for the purposes of aiding in the formation of a structure.

"DANGEROUS WASTE" means those solid wastes designated in WAC 173-303-070 through 173-303-103 as dangerous or extremely hazardous waste (WAC 173-303-040) and subsequent amendments.

"DESIGNATED GEOGRAPHICAL AREA" means a geographical area in which hazardous waste treatment and storage facilities are permitted uses, subject to the provisions of this ordinance and the state siting criteria.

"EXPANSION" means the enlargement of the land surface area of an existing facility from that described in an interim status permit application or final facility permit, the addition of a new dangerous waste management process, or an increase in overall design capacity of existing dangerous waste management processes at a facility.

"GENERATOR" means any person, corporation, business, government, or its operation, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation under the Dangerous Waste regulations.(WAC 173-303-040).

"HAZARDOUS SUBSTANCE" means any liquid, solid gas, sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste (RCW 70.105.010).

"HAZARDOUS WASTE" means and includes all dangerous and extremely hazardous waste (RCW 170.105.010).

"LAND-BASED FACILITY" means a dangerous waste management facility which falls under the definition of land disposal as defined in section 3004(k) of the Resource Conservation and Recovery Act. These facilities use the land as an integral part of their waste management method and include, but are not limited to, landfills, surface impoundments, waste piles, and land treatment facilities. For the purposes of this section, this would not include waste piles in which the dangerous waste are stored inside or under a structure that provides protection from precipitation and when runoff, leachate, or other types of waste dispersal are not generated under any conditions.

"MODERATE RISK WASTE" means hazardous wastes generated by households, businesses and institutions in small quantities as per RCW 70.105 and as amended. Business and institutions are considered moderate risk generators if they produce hazardous wastes in quantities that do not exceed 220 pounds of dangerous wastes per month or per batch or 2.2 pounds of extremely hazardous wastes per month or per batch.

"NONLAND-BASED FACILITY" means a facility which does not use the land as an integral part of its waste management method and is not subject to the requirements of WAC 173-303-806 (4)(a)(xxi). These facilities include, but are not limited to, tanks, containers, and incinerators.

"ON-SITE" means on-Site hazardous waste treatment and storage facilities that treat and store wastes generated on the same property.

"OFF-SITE" means hazardous waste treatment and storage facilities that treat and store waste from generators on properties other than those on which the Off-Site facilities are located.

"PERMITTED USE" means any use allowed in a zoning district, designated sensitive or critical area, and geographical area and are subject to the restrictions applicable to that area.

"PREEMPTED FACILITY" means any facility that includes as a significant part of its activities any of the following operations: (i) Landfill; (ii) incineration; (iii) land treatment; (iv) surface impoundment to be closed as landfill; or (v) waste pile to be closed as a landfill.

"PROCESSING AND HANDLING" means the use, storage, manufacture, production, or other activity involving hazardous substances. Hazardous substances processing and handling activities are normally found in commercial, manufacturing, and industrial zones. It does not include individually packaged household consumer products or quantities of hazardous substances of less than 5 gallons in volume per container.

"PERFORMANCE STANDARD" means the regulations contained in this ordinance and the state siting criteria.

"STORAGE" means the holding of dangerous waste for a temporary period. Accumulation of dangerous waste by the generator on the site of generation is not storage as long as the generator complies with the applicable requirements of WAC 173-303-20 and 173-303-201.

"TEMPORARY PERIOD" means that period of time under the Dangerous Waste Regulations, Chapter 173-303 WAC when a storage or treatment permit is required of a generator for generators of over 2200 pounds of waste per month or per batch, wastes accumulated on-site for over 90 days. For 220 to 2200 pound generators, the accumulation cutoff date is 180 days.

"TREATMENT" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

SECTION 3.0 ELIGIBLE GEOGRAPHICAL AREAS

Local governments without land use zoning provisions are required to designate eligible geographical areas within their jurisdiction, based on the state siting criteria. Therefore, the following geographical areas are designated as areas where hazardous waste treatment and storage facilities shall be allowed as permitted uses subject to the regulations of this ordinance and the state siting criteria:

N 1/2 Section 8, Township 20N, Range 3WWM

NW 1/4 Section 9, Township 20N, Range 3WWM

N 1/2 Section 11, Township 20N, Range 4WWM

S 1/2 of Section 2, Township 20N, Range 4WWM

SW 1/4 Section 4, Township 20N, Range 3WWM

**SECTION 4.0
FACILITY SITING CRITERIA**

RCW 70.105.225(1) requires that all zone designations and eligible geographical areas be consistent with the state siting criteria. In accordance with the requirements of RCW 70.105.225 (1), the state siting criteria must be included as performance standards for hazardous waste treatment and storage facilities in all designated zones and geographical areas. The Washington State Department of Ecology must be consulted with to assure compliance with the state siting criteria prior to the acceptance of a Hazardous Waste Siting Permit Application.

The state siting criteria shall be applicable to 1) new non-land based treatment and storage facilities; and 2) existing treatment and storage facilities that propose significant expansion unless the owner/operator can demonstrate to the satisfaction of Mason County that the proposed expansion will provide an net increase in the protection of human health and the environment. All hazardous waste treatment and storage facilities must comply with the following minimum performance standards:

1. Off-site and on-site hazardous waste treatment and storage facilities are required to meet the Siting Criteria for Hazardous Waste Treatment and Storage Facilities, adopted pursuant to the requirements of Chapter 70.105 RCW.
2. Off-site and on-site hazardous waste treatment and storage facilities are limited to treating or storing hazardous wastes generated in Mason County. The treatment and storage of hazardous wastes generated outside county borders is prohibited.
3. All new treatment and storage facilities and significant expansions to existing facilities shall comply with the State Environmental Policy Act (SEPA).

**SECTION 5.0
MASON COUNTY SITING PERMIT REQUIRED**

All off-site and on-site hazardous waste treatment and storage facilities shall require a Hazardous Waste siting permit for the siting of a proposed facility. A Hazardous Waste Siting permit shall be obtained before construction begins within any eligible geographical area. In authorizing a siting permit, special conditions may be attached by Mason County to minimize undesirable effects of the proposed facility.

PERMIT APPLICATION The Department of Community Development shall provide the necessary application forms for the Hazardous Waste siting permit. In addition to the information required on the application form, the applicant shall provide at a minimum, the following information:

1. **SITE PLAN - drawn to scale and including:**
 - a. property boundaries;
 - b. proposed facility location (all structures);
 - c. adjacent property dimensions;
 - d. typical cross section showing:
 - 1) existing ground elevation
 - 2) proposed ground elevation
 - 3) height of proposed structures
 - 4) drainage from and to the site as delineated by the administrator.
 - e. proposed land contours using five-foot intervals.
 - f. source of, composition, and volume of fill;
 - g. composition and volume of extracted materials;
 - h. location of proposed utilities, such as sewer, septic tanks, drainfields, wells, gas, and electricity;
 - i. Aquifer recharge areas. If unknown a detailed study may be required to identify any potential aquifer recharge areas on or near the proposed site.
 - j. Any information be required by the Health Services Director.
2. **VICINITY MAP**
 - a. Indicate site location using physical points of reference (roads, state highways, prominent landmarks, etc.);
 - b. show location of all water bodies and associated streams within one mile;
 - c. show all residential structures within one mile;
 - d. show all park land or public access points within one mile;
 - e. provide a detailed description of the land uses within one mile of the proposed facility, such as residential, commercial, rural, etc;
3. **ADJACENT LANDOWNERS - provide the names and addresses of all real property owners within 1 mile of the proposed facility;**
4. **HAZARDOUS MATERIALS - provide specific information on constituents and points of origins of waste to be accommodated by the proposed facility;**
5. **STATE SITING CRITERIA - show consistency with the state siting criteria.**
6. **ENVIRONMENTAL CHECKLIST - an environmental checklist must be completed and returned with the application packet, if applicable.**
7. **PROOF OF CONSULTATION - applicant must provide proof of consultation with the Washington State Department of Ecology showing proposed project is in compliance with the State Siting Criteria.**

Completed application packets shall be submitted to the Mason County Department of Community Development for processing and review. Any deficiencies in the application or documents shall be corrected by the applicant prior to further processing.

PERMIT PROCESS. when a complete application packet and associated information is received by the Department of Community Development, the Department shall mail notice of the proposed facility to all property owners within one mile of the project, and shall post notices in a conspicuous manner on the property which the facility is proposed. The department shall also be responsible for delivering legal notice to the newspaper, to be posted at least once a week for two consecutive weeks in a newspaper of general circulation within the area that the facility is proposed. Permit application shall be transmitted to the Board of Mason County Commissioners within 10 days after 30 days from the second week of posting in the local newspaper. of Advertising and mailing costs will be the responsibility of the applicant.

1. **APPLICATION REVIEW** - The Mason County Department of Community Development and all other affected county departments shall make recommendations to the Board of Mason County Commissioners regarding permits; based on the following criteria:

- a. relationship of the proposed facility to the eligible geographical area designation;
- b. RCW 70.105, WAC 173-303;
- c. information provided in the application;
- d. consistency with the state siting criteria;
- e. compliance with SEPA;
- f. Department of Ecology permitting information.
- g. other county land use regulations.

2. **BOARD OF COUNTY COMMISSIONERS**

- a. Upon receipt of the recommendation from The Department of Community Development and other affected county departments, the Board shall either approve, conditionally approve, deny the application, or postpone for further information during a public hearing;
- b. The decisions of the Board shall be the final decision of the county on all applications and the Board shall render a written decision including findings, conclusions, and a final order, and transmit copies of the decision within 21 days of the Board's final decision to the following:
 - 1) the applicant;
 - 2) the Department of Ecology;
 - 3) the Department of Community Development.

3. **WASHINGTON STATE DEPARTMENT OF ECOLOGY REVIEW.** Development shall not begin until final approval is granted by the Washington State Department of Ecology under RCW 70.105, Hazardous Waste Management, and WAC 173.303, Dangerous Waste Regulations. All permits under the above stated sections must be obtained before construction commences.
4. **TIME LIMIT FOR ACTION.** No permit or exemption authorizing construction shall extend for a term of more than one year after all required permits have been issued for the project. If actual construction of a development for which a permit has been granted has not begun within one year after the approval, the Board or the Department of Community Development shall require completion of another permit process under this ordinance and subsequent amendments.

PERMIT REVISIONS/RECISION. A person operating under a current permit may apply to the Department of Community Development for modification to the permit, or the Board or Department may rescind a permit if there is evidence of noncompliance with the existing permit. In either case, the following procedure shall apply:

- a. The Department of Community Development shall determine if the revision is within the scope and intent of the original permit and transmit a recommendation to the Board of County Commissioners within 30 days of receipt of the revision request. The Board will then render a final decision on the revision or recision;
- b. If the said revision is determined to be outside the scope and intent of the original permit, a new and complete permit application shall be made in compliance with RCW 70.105 and the requirements of this ordinance;
- c. If said revision is determined to be within the scope of the original permit, the Board may approve the revision during a public hearing. The approved revision along with copies of the revised site plan and text shall be submitted to the Department of Ecology and to persons who have previously notified the county relative to the original application.
- d. If the Board determines that there exists noncompliance with a permit and/or any conditions attached thereto or any revisions and modifications, then the Board shall issue notice of noncompliance to the permittee and to the parties of record and move to rescind the original permit after a hearing.

SECTION 6.0
GENERAL PROVISIONS

5.1 SEVERABILITY

The adjudication of invalidity of any section, clause or part of a section of this ordinance shall not impair or otherwise affect this ordinance as a whole, or any other part hereof.

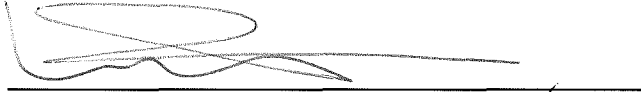
5.2 ENFORCEMENT

Any person who violates this ordinance or fails to comply with any or all of its requirements shall upon conviction thereof be fined not more than \$1,000 or imprisoned for not more than 60 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Mason County from taking other lawful action as is necessary to prevent or remedy any violation. The local Prosecuting Attorney shall bring such injunctive, declaratory, or other actions as are necessary to ensure compliance with this chapter.

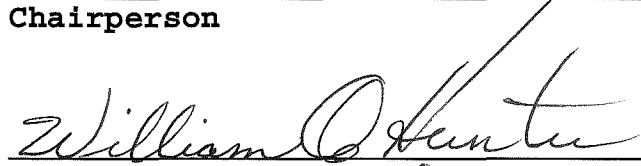
This ordinance shall be in full force and effective this date.

DATED this 28th day of January, 1991


**BOARD OF MASON COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON**



Chairperson



Commissioner



Commissioner

ATTEST:



Clerk of the Board

APPROVED AS TO FORM:



Prosecuting Attorney