

ORDINANCE 90-2
Solid Waste Facility Siting Ordinance
of
Wythe County, Virginia

ARTICLE I - Title, Authority, and Jurisdiction

- 1.1 Title. This ordinance shall be known as the "Solid Waste Facility Siting Ordinance of Wythe County", Ordinance 90-2.
- 1.2 Authority. This ordinance is adopted pursuant to the authority of Sections 10.1-1408.1 and 15.1-11.02 of the code of Virginia 1950 as amended.
- 1.3 Jurisdiction. The provisions of this ordinance shall apply to all land within Wythe County which is not within the jurisdiction of the incorporated municipalities.

ARTICLE II - Purpose

- 2.1 To promote the health, safety and general welfare of the public by providing for a set of criteria for the development of solid waste management facilities within Wythe County.

ARTICLE III - Rules

- 3.1 In the construction of this ordinance, the rules contained in this section shall apply, except where the context clearly indicates otherwise:
- 3.1-1 Words in the present tense shall include the future, and words in the singular shall also include the plural;
- 3.1-2 The word "shall" is mandatory, and not discretionary;
- 3.1-3 The word "may" is permissive;
- 3.1-4 The word "approve" shall be considered to be followed by the words "or disapproved";
- 3.1-5 The masculine gender includes both the feminine and neuter;
- 3.1-6 Any reference to this ordinance includes all ordinances amending and supplementing the same;

ARTICLE IV - Definitions

For the purposes of this ordinance certain terms or words used herein shall be defined as follows:

- 4.1 The word "person" includes firm, association,

organization, partnership, trust, company, or corporation as well as an individual.

- 4.2 The word "parcel" includes the words "lot, plot, and tract".
- 4.3 The term "solid waste" shall have the meaning set out in Section 10.1-1400 et seq. of the Code of Virginia, and the regulations of the Virginia Department of Waste Management.
- 4.4 The term "solid waste management facility" shall mean any facility at which solid waste is managed, as defined by Section 10.1-1400 of the Code of Virginia, and the regulations of the Virginia Department of Waste Management.
- 4.5 The term "waste management" shall have the meaning set forth in Section 10.1-1400 of the Code of Virginia.

ARTICLE V - Strict Compliance Required

- 5.1 No solid waste management facility may be located in Wythe County unless in strict compliance with the terms of this ordinance.

ARTICLE VI - Criteria for Siting-Solid Waste Management Facilities

- 6.1 A solid waste management facility shall not be sited or constructed in areas subject to base floods or in designated flood plains.
- 6.2 No solid waste management facility shall be sited in geologically unstable areas where inadequate foundation support for the construction components for the solid waste management facility exist, giving due consideration to soil conditions, geological and geomorphologic features, man made features and sinkholes.
- 6.3 No sanitary landfill areas shall extend closer than 200 feet of any regular flowing surface body of water, 500 feet of any well, spring, or other ground water source of drinking water. Solid Waste Management Facility disposal area shall also be a minimum of 50 feet from any public road or right-of-way used by persons other than the person operating the landfill, 500 feet from the active filling area to any residence, school, hospital, nursing home, or recreational park area.
- 6.4 There shall be a minimum separation of five feet between the deposit of solid waste and maximum seasonal water table or bedrock unless equal isolation of separation can be achieved and maintained by construction and operation methods to meet the standards of the Virginia Department

of Waste Management.

- 6.5 If the surface and mineral owners are not the same, the applicant must obtain a signed affidavit from the owner of the mineral rights affirming his concurrence with the proposed landfill.
- 6.6 The Board of Supervisors shall also consider the following siting criteria in evaluating an application:
1. Suitability of the proposed solid waste management facility siting in the light of the surface and subsurface conditions (porous, fractured or subsided, or affected by natural sinkholes, fissures and cracks).
 2. Impact of the proposed solid waste management facility site on groundwater and water used by surface owners and localities within Wythe County.
 3. The fitness of the applicant, its owners and their companies, to guard and protect the safety and welfare of the public and all natural resources.
 4. The likelihood that a breach of the solid waste management facility containment systems could occur and if so, the impact such a breach would have upon ground and surface water.
 5. The access from a primary highway to the proposed site and the potential for accidents on secondary roads and bridges, not designed to handle the traffic generated by the Solid Waste Management Facility.

ARTICLE VII - Application for Siting Approval

- 7.1 Contents. All applications shall contain the following information:
1. Name, address, phone number of applicant;
 2. Names, addresses, phone numbers (home and work) of all persons and entities owning an interest, whether express or silent, in the solid waste management facility's operation; or site;
 3. Legal description of the property on which the facility is proposed to be located and tax map reference;
 4. Description of the current land use;
 5. The proposed size and type of solid waste management

facility and preliminary site plans;

6. The names, addresses, and phone numbers of all residents and owners living within a one mile radius of the proposed solid waste management facility site and detailed information regarding the source of each listed resident's water supplies; the applicant shall take a written statement from the resident and have the resident sign and verify that the information contained therein is true and accurate, with a copy being given to the resident; should the resident refuse to cooperate with the applicant, the applicant shall report that fact in the application;
7. A description of the type and volume of waste to be deposited in the proposed solid waste management facility, along with relevant information regarding the operation and environmental record of the entities who have been in contact with the applicant to utilize the said solid waste management facility; all information required herein shall be updated regularly by the applicant, pending action by the Board of Supervisors on the solid waste management facility siting request;
8. A plan for land use of the site after closure of the facility;
9. Information regarding violations of federal or state environmental or solid waste laws or regulations by any of the applicants, owners, officers, or any corporate entities in which the applicants own or have owned an interest; said record of violations shall include those filed in all states in which said applicants or above mentioned or related entities have or had operations;
10. A map showing the location of the proposed facility, the roads and rights-of-way giving access to the facility, the approximate location of residences, schools, hospitals, churches, retail establishments located along any street or secondary road proposed to be used as an access road to the facility;
11. A site plan showing the entire acreage owned or controlled by the applicant, the names of adjoining property owners, the location on any adjoining property or other properties within 1500 feet of the site of any residence, school, hospital, church, recreational park, and retail establishment.

7.2-2 Additional Information. If requested by the Board of Supervisors, the applicant shall furnish engineering and site plans to show; slope and direction of rock strata

and aquifers, availability of cover material on site, location of springs, seeps, and other ground water sources, other responsible ground water intrusion to the site, location of any gas, water, sewage, electrical or other transmission lines under, on or over the site; the prior existence of any such facilities on the site; and the location on the site of any prior open dump, landfill, lagoon, surface or deep mine, or similar facility. If requested by the Board of Supervisors, the applicant shall provide detailed core hole samples from 2 locations with 50 horizontal feet of the opposite extremities of the site of at least 300 feet deep - (50 feet deep if near a utilized fresh water aquifer). If requested, the applicant shall also provide certified test results of the water quality of any fresh water aquifers beneath the proposed site to a depth of 300 feet.

ARTICLE VIII - Verification of Application

- 8.1 The information in the application shall be sworn to as being complete and accurate and shall be signed by the President of the applicant's corporation, if said applicant is a corporation, or by all the partners in a partnership, both general and limited partners, or the individual sole proprietor if same applies. All technical information contained in said application shall be certified by a professional engineer, geologist or hydrogeologist.

ARTICLE IX - Approval of Planning Commission

- 9.1 Before any application submitted pursuant to this ordinance is submitted to the Board of Supervisors, it must first be reviewed by the Wythe County Planning Commission to determine if the proposed solid waste management facility is in compliance with the County's Comprehensive Plan. The Planning Commission shall have 45 days to review and comment, with said time not being counted towards the 60 day review period of the Board of Supervisors. No application shall be considered complete without Planning Commission review and comment.

ARTICLE X - Application Fee

- 10.1 The non-refundable fee established to cover the cost of processing the application, giving notice to affected property owners and advertising a public hearing shall be a minimum of \$2,500.00, or the actual cost of processing the application, whichever is greater, and shall include the costs of legal and technical review, and the minimum fee shall be payable by the applicant with the application;

ARTICLE XI - Public Hearing and Deadline for Board Action

- 11.1 Within one hundred twenty days after the receipt of the complete application; with the review comments of the Planning Commission, the Board of Supervisors shall hold a public hearing and take formal action upon the proposed siting of the solid waste management facility, either granting or denying the certificate. The hearing shall be advertised as all other nonrevenue ordinances are advertised. If the Board of Supervisors approves the siting location, it shall issue a certificate as specified by Section 10.1-1408.1 of the Code of Virginia. If the Board of Supervisors declines to award a certificate, it shall advise the applicant of the reasons for declining to issue a certificate.
- 11.2 In making a decision as to whether or not the certificate shall be issued, the Board of Supervisors shall consider the potential impact of the siting or the health, safety, and welfare of the residents of Wythe County.
- 11.3 Once the certificate has been issued, the size of the site or the type of waste shall not be enlarged without reapplication and a new public hearing.
- 11.4 A site may be decreased in size or reduced in types of waste or volume may be reduced without amendment of the certificate or new application provided, however, that in the event of a reduction in size of site or types and volumes of waste to be handled at the site after the issuance of said certificate the applicant shall within thirty days thereof file with the Board of Supervisors a new plat of site or a new description of the volume and type of waste which will be disposed of at the site.
- 11.5 The Board of Supervisors in determining whether or not to issue a certificate may also consider whether the proposed facility is compatible to existing land uses and what visual barriers such as tree buffers or berms screen the site from adjacent residences, schools, hospital, parks and recreation areas and retail establishments. The Board of Supervisors may also consider litter on secondary access roads to the site, noise, odor, and hours of operation.

ARTICLE XII - Mdifications

- 12.1 This ordinance shall apply to all solid waste management facilities located within the County of Wythe, Virginia, provided however, that the Board of Supervisors may modify the requirements for a private on-site solid waste management facility to be used only by the person or concern located thereon for the disposal of its waste.

ARTICLE XIII - Issuance of Certificate

- 13.1 If a certificate is granted, certificate shall name the applicant, its address, describe in detail the location of the site and list the types of solid waste which may be disposed of at the facility. It shall specifically refer to the date of the application and specifically list the date of any amendments thereto. When a certificate is issued, said certificate shall state that the location and operation of the facility are consistent with all applicable ordinances of Wythe County, Virginia, and a copy of the application and all amendments thereto shall be attached to the copy of the certificate which is to be filed by the applicant with the Director of the Department of Waste Management.

ARTICLE XIV - Continuing Authority of Board of Supervisors

- 14.1 The Board of Supervisors reserves the right to make such inspections of the site as necessary to carry out the purposes of this ordinance (the cost of which shall be borne by the applicant) and to suspend and to suspend and close the facility upon a finding by the Board of IMMEDIATE DANGER TO THE PUBLIC AND/OR TO THE ENVIRONMENT. The Board of Supervisors will provide a reason for such closing to the facility manager and owner and a list of corrective actions to be taken to alleviate such problems.

ARTICLE XV - Penalties

- 15.1 Violations of this ordinance shall be subject to a fine of up to \$1,000.00 and/or up to twelve (12) months imprisonment as provided in Section 15.1-505 of the Code of Virginia. Each day a person is in violation of this ordinance shall constitute a separate offense and such violation shall additionally be subject to injunctive relief in a state court of competent jurisdiction.

ARTICLE XVI - Legal Status Provisions

- 16.1 Certified Copies of Ordinance. Certified copies of this ordinance and all amendments thereto shall be filed in the offices of the Wythe County Planning Commission, the Wythe County Building Official, the County Administrator, and the Clerk of the Circuit Court of Wythe County, Virginia.
- 16.2 Validity. Should any article, section, subsection, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of constitutionality of this ordinance as a whole or any part thereof other than the part so declared to be

invalid or unconstitutional.

16.3 Conflicting Ordinances. Any and all ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent of their conflict. However, any underlying ordinance shall remain in full force and effect to the extent that those provisions are more restrictive.

16.4 Adoption. This ordinance was adopted under emergency procedure on June 12, 1990. A duly advertised public hearing was held on July 10, 1990 at 9:30 a.m. in the Board Room of the County Office Building, and was re-adopted by the Wythe County Board of Supervisors at its regular meeting held on July 10, 1990, on a motion by Supervisor Kegley, duly seconded by Supervisor Naber, and the members voting:

<u>NAME</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSENT</u>
Robert C. Williams	X		
Sidney C. Crockett	X		
Alan A. Dunford	X		
R. T. DuPuis	X		
George T. Johnstone	X		
G. Andrew Kegley, Jr.	X		
Charlotte H. Naber	X		

This ordinance shall become effective immediately upon adoption.

I certify that this is a true and correct copy taken from the July 10, 1990, minutes of the Wythe County Board of Supervisors.

Billy R. Branson, Clerk