

590

approved

COMMONWEALTH OF KENTUCKY
OWEN COUNTY SOLID WASTE ORDINANCE
ORDINANCE # 99

AN ORDINANCE REGULATING THE STORAGE, COLLECTION,
TRANSPORTATION, AND DISPOSAL OF SOLID WASTE AND
THE SITING OF SOLID WASTE MANAGEMENT FACILITIES.

WHEREAS, it is necessary and proper pursuant to KRS 67.083 for the County of Owen to regulate the storage, collection, transportation, and disposal of solid waste within Owen County for the protection of the residents thereof;

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF OWEN, COMMONWEALTH OF KENTUCKY, THAT:

Section 1: Purpose

This ordinance is enacted:

- A. To enhance and protect the public health;
- B. To abate a potential public health hazard or nuisance;
- C. To preserve the natural resources of Owen County;
- D. To encourage the social and economic development of Owen County;
- E. To assure adequate capacity for the disposal of solid waste and to site solid waste management facilities in areas of the County which will minimize the adverse effects of such facilities; and

F: To encourage recycling and waste reduction so as to preserve scarce resources and to reduce the volume of the solid waste stream being created.

Section 2: Definitions

A. "Collection" means removal of solid waste from the designated pickup location to the transportation vehicle.

B. "Existence" means a solid waste management facility which is in operation, or for which continuous construction has commenced at time of enactment of the ordinance. A solid waste management facility has commenced continuous construction if:

- (1) The owner or operator has obtained necessary federal, state or local approvals to be in physical construction; and

(2) Either:

(a) A continuous on-site physical construction program has begun;

(b) the owner or operator had entered into contractual obligations which could not be canceled or modified without a substantial loss.

C. "Hazardous Waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in serious or irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. The term hazardous waste shall include only those substances or materials listed in 401 KAR 31:040.

D. "Owner or Operator" means the owner of any solid waste management facility and any person who has ultimate decision-making authority over the facility or other person involved in the operation of a solid waste management facility.

E. "Person" means any individual, trust, firm, corporation, joint stock company, partnership, association, federal agency, state agency, city, commission, or political subdivision of the Commonwealth.

F. "Recycling Facility or Resource Recovery Facility" means any facility at which non-hazardous materials are salvaged, separated, or transformed for the purpose of creating any material or energy for beneficial reuse or sale. Recycling facilities and resource recovery facilities are to be limited to those facilities whose owner or operator derives 90% or more of its revenue at that facility from the reuse or sale of recycled or recovered products and materials.

G. "Solid Waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining (excluding mining waste, by product, refuse and overburden), and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial wastewater systems, or source, special nuclear, or by product material as defined by the atomic energy act of 1954, as amended, or non-hazardous materials that are recycled, reused or utilized for resources facilities or that are intended for recycle, reuse, or resource recovery. For purpose of this ordinance, substances which are "special wastes" are not within the definition of solid waste.

H. "Solid Waste Management" means the administration of solid waste activities, which includes source separation, transfer, processing, treatment, and disposal of solid waste.

I. "Solid Waste Management Facility" means any facility for source separation, transfer, processing, treatment or disposal of solid waste.

J. "Special Wastes" mean those wastes of high volume and low hazard which include, but are not limited to, mining waste, utility wastes (fly ash, bottom ash, scrubber sludge and other wastes from coal-fired electric generating plants), sludge from water treatment facilities and waste water treatment facilities, cement kiln dust, gas and oil drilling muds and oil production brines.

K. "Storage" means keeping, maintaining or storing solid waste from the time it is generate until the time it is collected and disposed of.

L. "Transfer" means holding or transferring any solid or hazardous waste at any transportation related facility including any fixed or mobile loading docks, parking areas, or similar areas where shipments of solid waste are held or transferred during the normal course of transportation.

M. "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto.

Section 3: Applicability

A. This ordinance shall apply to the storage, collection, transportation, transfer, and disposal of solid waste in Owen County and to any persons who is an owner or operator of a solid waste management facility.

B. This ordinance shall not apply to any solid waste management site or facility in existence and holding all authorizations or permits required under applicable state or federal laws as of the date of enactment of this ordinance:

Provided, however, that any owner or operator of a solid waste management facility shall be required to obtain fiscal court site approval as required by this ordinance in the event that the owner or operator proposes to alter the activity conducted to:

- (1) Include a new solid waste management facility; or
- (2) Increase the total volume of solid waste disposal by twenty five (25%) percent or greater; or
- (3) Modify or expand existing solid waste management facility resulting in an increase in the facility's disposal capacity; or

(4) Include a new type of waste being received.

C. This ordinance shall not apply to recycling facilities or resource recovery facilities or to any solid waste management facility owned by such recycling or resource recovery facility which is utilized exclusively for the management of residual material derived from the operation of the recycling facility or resources recovery facility provided that such residual materials are non-hazardous, and are managed in full compliance with the environmental performance standard of 401 KAR 47:030. The Fiscal Court, or an agent thereof, is hereby authorized to conduct reasonable inspections of recycling facilities, resource recovery facilities or any solid waste management facility associated therewith and to review applicable records in order to determine whether the terms of the exemption granted by this section have been satisfied.

D. Special wastes within the definition of Section 2(J) of this ordinance are not solid wastes. Accordingly, this ordinance is not applicable to the storage, processing, transfer, disposal or other handling of special wastes.

E. Construction/demolition debris landfills of one acre or less issued a permit by rule under 401 KAR 47:080 and operating in conformance with all applicable regulations are exempt from Section 8 of this ordinance.

F. The provisions of Section 8 of this ordinance shall not apply to the source separation of solid waste where such separation is conducted at a recycling facility, a resource recovery facility, or at the site where the solid waste was generated.

Section 4: Storage of Solid Waste

A. The occupant or owner of every dwelling unit and of every institutional, commercial or business, industrial or agricultural establishment producing solid waste shall provide sufficient and adequate containers for each dwelling unit or establishment to store all solid waste, except for bulky rubbish and demolition and construction debris.

B. All solid waste shall be collected in proper waste containers and such solid waste containers and the area surrounding them shall be maintained in a clean, neat and sanitary condition at all times. Solid waste shall be stored in a manner that will not provide harborage of rodents, insects and vermin and will not create a fire hazard. Solid waste containers shall be leakproof, waterproof, and fitted with a secure lid and shall be properly covered at all times except when depositing waste therein or removing the contents thereof. (With respect to commercial containers, i.e. "greenboxes", or roll-off containers, this section (Section 4(B)) shall not take effect until six months from the effective date of this ordinance.)

C. Plastic garbage bags may be used as containers for solid waste only if they are made of a strong material able to withstand compaction, are absent of flaws that would allow leachate or solid waste to escape and are securely fastened. Plastic garbage bags may be left at the point where collection services are performed but shall not be left out for more than twelve (12) hours prior to time of collection.

D. No solid waste shall be stored at a site other than the place of its generation for more than twelve (12) hours after collection, unless at an approved and permitted solid waste management facility.

E. Demolition and construction debris shall not be stored longer than commercially reasonable, and under no circumstances shall such debris be stored for longer than six (6) months, unless at a permitted construction/demolition debris landfill.

F. Storage of household and agricultural waste on the property owned or leased by the generator of the waste is permissible, provided that open dumping laws are not violated.

Section 5. Collection of Solid Waste

A. Any person who collects, hauls or transports any solid waste not generated at a site owned or operated by the person collecting, hauling or transporting such solid waste shall first obtain a collection/transportation permit from the Fiscal Court.

B. A fee of \$25.00 per vehicle, plus \$4.00 for each cubic yard of capacity of such vehicle over 18 cubic yards, shall be assessed and is payable to the Owen County Fiscal Court at such time as application is made for the collection/transportation permit.

C. Collection/transportation permits are valid from the date of issuance until the 31st day of December of the year in which the permit is granted.

D. All applications for collection/transportation permits shall be made on the official form which is attached hereto as "Appendix A" and which may be obtained at the office of the Owen County Judge/Executive. Failure to complete any portion of the application form or the giving of false information in such application shall be grounds for denial of the requested permit.

E. At time of permit expiration, the permit holder shall submit to Owen County Fiscal Court a performance report relative to the past year's operations. If operational deficiencies are found via the performance report or by other means, the permit holder shall be notified to appear before the Owen County Fiscal Court and show cause why the collection/transportation permit shall not be suspended or revoke.

F. Collection or transportation shall not continue after permit expiration until the permit has been reissued or an extension has been granted.

G. Any person engaged in the collection and transportation of solid waste must carry liability insurance in the amount of not less than One Hundred Thousand (\$100,000.00) Dollars for each person injured or killed, and in the amount of not less than Five Hundred Thousand (\$500,000.00) Dollars in the event of injury or death of two or more persons in any single accident. Such policy must provide liability coverage for damage to property in the amount of One Hundred Thousand (\$100,000.00) Dollars and may be written to allow the first Two Hundred Fifty (\$250.00) Dollars of liability for damage to property to be deductible. Proof of insurance meeting the above-described requirements shall be furnished to the Fiscal Court at the time of application for permit.

H. No permit shall be required for a vehicle transporting solid waste through Owen County which is neither collected, transferred, or disposed of in Owen County. However, all vehicles which either collect or transfer or dispose of waste in Owen County must has a collection/transportation permit, unless the person collecting, transferring, or disposing of solid waste is also the generator of that waste.

I The provisions of Section 5 of this ordinance shall not apply to persons occasionally transporting construction/demolition debris or debris associated with land clearing, provided that such persons are not in the business of transporting such solid waste.

Section 6. Transportation of Solid Waste

All transportation vehicles shall be maintained in a safe, clean, and sanitary condition, and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for transportation of solid waste shall be constructed with adequate sides so as to prevent spillage of solid waste and shall be provided with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste, or as an alternative, the entire bodies thereof shall be enclosed, with only loading hoppers exposed. No solid waste shall be transported in the loading hoppers.

Section 7. Disposal of Solid Waste

No solid waste shall be disposed of in Owen County other than at an approved and permitted solid waste management facility meeting all requirements of this ordinance, and applicable state statutes and regulations, except agricultural and domestic burning as provided by state statutes.

Section 8. Siting of Solid Waste Management Facilities

Section 8.1 Prohibition

A. No person shall construct or operate a solid waste management facility prior to the issuance of a Site Approval Permit by the Owen County Fiscal Court as provided in this ordinance.

B. The Owen County Fiscal Court has determined that certain areas within the County are not suitable for the siting of solid waste management facilities. Accordingly, site approval permits shall not be issued for a facility in an area where solid waste management facilities are tentatively prohibited unless the owner or operator can show compelling reasons why the site approval permit should be issued. The Fiscal Court has based this tentative prohibition on the criteria set forth in Section 8 of this ordinance, as those criteria apply to areas in general and not to specific facilities.

C. The Site Approval Permit required by Section 8.1(A) of this ordinance is required in addition to any other approvals or permits required by federal or state regulatory authority.

D. No person shall dispose of hazardous wastes in Owen County other than the small quantities allowed pursuant to 401 KAR Chapter 47.

Section 8.2 Site Approval Process

A. The owner or operator of a proposed solid waste management facility shall file an application for a Site Approval Permit with the Owen County Fiscal Court at the office of the County Judge/Executive.

B. The application for a Site Approval Permit shall include:

(1) The name and address of the owner or operator and the location of the proposed site of the facility.

(2) A copy of the deed or other document establishing the right, title and interest of the owner or operator in the proposed site of the facility.

(3) A current USGS map showing the location of the proposed site, at a scale of one (1) inch equals two thousand (2,000) feet, with said map showing the entire boundaries of the site or proposed site;

(4) A description of the type of solid waste and the source of generation of the solid waste involved in the solid waste activity to be conducted on the site together with a description of the technology and the

procedures the owner/operator proposes to utilize in its solid waste management activities at the site;

(5) A complete history of the owner or operator's prior experience in the ownership and/or operation of any and all solid waste facilities or activities, wherever located. The description shall include a record of compliance with federal, state and local laws and regulations applicable to the operation of solid or hazardous waste management facilities, and with respect to the owner or operator, such description shall disclose:

(a) Any administrative, criminal or civil action pending against the owner or operator of the proposed site alleging a violation of any federal, state or local law or regulation concerning solid waste, the protection of public health and safety, or environmental protection;

(b) For the five (5) year period immediately preceding the date of filing of the petition for site approval, whether the owner or operator has been convicted of a crime, entered a plea of guilty or such other plea of no contest to a felony or misdemeanor charge, been held liable in a civil or administrative action, or agreed to the payment of any civil penalties or monies as a part of the final disposition of any civil, administrative or criminal proceeding, involving the violation of any federal state, or local law or regulation applicable to the management of solid waste and the protection of the public health and safety of the environment;

(6) The petition for site approval shall identify the following persons and entities, and provide the compliance information required by Section 8.2(B)(5) for each person or entity so identified:

(a) The owner or operator applying for site approval;

(b) If the owner or operator is a proprietorship, each proprietor and the interest held;

(c) If the owner or operator is a partnership, each of the partners and their respective interest, and any corporation, joint venture, partnership in which any of the partners comprising the applicant holds twenty-five (25) percent or greater interest;

(d) If the owner or operator is a corporation, a detailed listing of the officers, directors and stockholders; any corporation of which the applicant

578

is a subsidiary or which holds a ten (10) percent or greater interest in the applicant; any corporations which are either subsidiaries of the applicant or in which the applicant holds a ten (10) percent or greater interest; and any proprietorship, partnership, or joint venture in which the applicant holds a ten (10) percent or greater interest.

For the purposes of this section, "interest" includes ownership or other interest reflected in stocks, assets or other beneficial interest.

(7) Financial data including:

(a) An estimate of the total cost of the facility and an estimate of the cost of each of the major components of the facility;

(b) Audited statements of income and balance sheets of the owner or operator for each of the three (3) years immediately preceding the year in which the application for site approval permit is filed;

(c) A plan of financing for the proposed facility, including the amount to be raised through debt and the potential sources' thereof. If the owner or operator is a subsidiary corporation which wishes to have the financial resources of its parent considered, then the owner or operator shall submit, in addition to the foregoing, a description of the relation between the subsidiary and the parent and written confirmation from such parent corporation that its financial resources are available to finance the proposed facility as represented by the subsidiary;

(d) A statement as to the extent of liability insurance in effect or proposed with respect to the facility, together with true copies of any policies of insurance in effect and a listing of any claims made or threatened under any policies of liability insurance;

(e) A statement as to whether the owner or operator has been designated as a potentially responsible party under the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA:), as amended; and, if so, the location of the site or sites involved, an estimate of the owner or operator's share, if any, of the cost to clean up the site and a description of site and superfund listing;

(8) A statement as to the present suitability of the site for the conduct of the proposed activity at the facility and of any additional measures that would be required to make the site suitable for such activity;

(9) A set of drawings prepared by a licensed engineer depicting the proposed facility, which drawings impart sufficient detail and information for the analysis required under this ordinance;

(10) A Facility Impact Report ("FIR") in accordance with this ordinance;

(11) A copy of the public notice of the right to submit comments to the Owen Fiscal Court pursuant to Section 8.2(D) hereof;

(12) Evidence of notification to adjoining property owners by certified mail of the intention to submit to the Owen County Fiscal Court an application for a Site Approval Permit for a solid waste management facility;

(13) A list of the names and addresses of all persons to whom the application for site approval was submitted pursuant to the provisions of Section 8.2(C); and

(14) The following certification:

"I certify under the penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based upon my inquiry of the person or persons directly responsible for gathering and evaluating the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Which shall be signed:

(a) If the owner or operator is a corporation, by an authorized executive officer; or

(b) If the owner or operator is a partnership, by an authorized general partner; or

(c) If the owner or operator is a sole proprietor, by the proprietor; or

(d) If the owner or operator is a governmental agency, by the head of that agency.

600

(15) Any information submitted to the Owen County Fiscal Court pursuant to this ordinance may be claimed confidential by the submitter. Any such claim must be asserted at the time of submission by stamping the words "Confidential Business Information" on each page containing such information. If no claim is made at the time of submission, the Owen County Fiscal Court may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in KRS 224.035, which are adopted herein by reference. Claims that the name and address of any owner or operator is confidential will be denied.

(16) A true copy of any permit application required by the Natural Resources and Environmental Protection Cabinet, if such application is available.

(17) A closure plan for the landfill as required by Title 401 Chapter 47 of the Kentucky Administrative Regulations with estimates of closure costs.

C. Submission and Distribution

(1) The application for site approval shall be submitted to the Owen County Judge/Executive. Within forty-five (45) days of the receipt of the application for site approval, the owner/operator shall be notified in writing if such application is administratively complete. For the purposes of this ordinance, "Administratively Complete Application" means an application for site approval which the Owen County Judge/Executive, or a designated agent thereof, determines contains information addressing each application requirement of this ordinance and all information necessary to initiate technical processing and public review. Additional information may be required after determination that the application is administratively complete.

(2) Upon receipt of the notification from the County Judge/Executive of administrative completeness, the owner/operator shall forthwith deliver the application for site approval to the following persons:

(a) Members of the Owen County Fiscal Court and the Owen County Attorney at those addresses set out in the list to be provided to the owner/operator of the proposed facility by the County/Judge Executive;

(b) The Fire Department Chief over the jurisdiction of the site or facility; such fire department shall be within the boundaries of Owen County;

001

(c) The County Disaster and Emergency Services Coordinator ("DES"); and

(d) The Director of the Owen County Health Department.

D. Public Comment and Public Hearing

Each application for site approval shall be subject to a public comment period and a public hearing. After the owner or operator has been notified that the application for a site approval permit is administratively complete and has submitted such application to the persons or agency as required by Section 8.2(C), the owner or operator shall cause a public notice to be published weekly for six (6) consecutive weeks in the newspaper of the greatest circulation serving Owen County.

The notice shall be in a form that advises the public that an application for a Site Approval Permit has been filed. The beginning date of the public comment period shall commence as of the date of the first public notice and shall end on the date on which the public hearing is concluded. The public hearing shall be held within forty-five (45) days after the date of the publication of the last of the six weekly public notices required herein. Such public hearing shall be held in Owen County at a location readily accessible to the public.

Section 8.3 Fiscal Court Determination As To Facility Site Approval

A. Within sixty (60) days after the conclusions of the public hearing, the appropriate Fire Department Chief, the County D.E.S. Coordinator and the Director of the Owen County Health Department shall review the application for a Site Approval Permit, together with any comments or information received during the public comment period, and any other information deemed appropriate, and each such agency shall make a recommendation to the Fiscal Court regarding the issuance or denial of the Site Approval Permit for the proposed facility.

Within thirty (30) days following receipt of the agency recommendations, the Fiscal Court of Owen County shall make final determination whether to issue or deny the Site Approval Permit.

B. Fiscal Court Determination: The Owen County Fiscal Court shall issued the application for site approval if it finds, on the basis of the information available to it that:

- (1) The nature of the solid waste management activity conducted at the facility site will not present an unreasonable risk to public health or safety;

602

(2) The nature and extent of the solid waste activity conducted at the proposed site would not significantly impede or adversely impact the provision of fire, health and other emergency services to the public both in the vicinity of the proposed site and throughout Owen County;

(3) The nature of the solid waste activity conducted at the facility site would not result in a significant reduction in the public's use and enjoyment of parks, recreational waters, historic structures, cultural and natural resources located in the vicinity of the proposed site;

(4) The facility and the solid waste activity occurring on the site will not have a significant adverse impact on the establishment of business, residential developments, churches, schools or other types of activities related to the social, economic, and cultural development of Owen County;

(5) The owner/operator's prior experience and history in solid waste activities indicates a reasonably satisfactory record of compliance with applicable federal, state, and local laws and regulations, and based upon such prior record, it can be reasonably expected that the owner/operator will, in constructing, expanding, maintaining or operating the facility at the proposed site maintain a corresponding satisfactory record of compliance with applicable laws and regulations;

(6) The owner or operator has sufficient financial resources to complete construction of the new or expanded facility, maintain and operate the facility in compliance with applicable laws and regulations, respond immediately in the event of emergency by reason of accident or upset at the site, and complete closure of the facility in accordance with federal and state laws and regulations.

(7) The owner or operator has complied with all solid waste management laws and regulations concerning solid waste facility permits, filings and/or notifications required by the state or federal regulatory authority;

(8) The application is consistent with the goals and objectives of the county solid waste plan as adopted; and

(9) The required financial responsibility for closure has been established, by posting a bond or establishing an escrow account in a minimum amount of Ten Thousand (\$10,000.00) Dollars or greater if so determined by an approved closure plan and cost estimate. The approved cost estimate for closure and corresponding bond shall be

reviewed and adjusted at least once every five (5) years.

C. Notification

The Owen County Fiscal Court shall send written notification of its determination with respect to the Site Approval Permit application to the owner or operator and to all persons who submitted written or oral comments during the public comment period. Such notifications shall include a written summary of the basis for the determination.

D. Coordination With Other Laws

The Owen County Fiscal Court shall, to the extent possible or as may be required, coordinate its review of applications for site approval under this ordinance with the exercise of authority conferred upon it pursuant to any state or federal laws.

Section 8.4 Facility Impact Report

A. Procedure

The owner or operator shall file with its application for site approval a facility impact report which shall include the following: An environmental impact report, a socioeconomic report, and a risk assessment.

The owner or operator shall publish notice of the availability of the facility impact report for examination and review at the office of the County Judge/Executive, such notice to be included in the public notice required in Section 8.2(D) hereof with respect to the application for site approval.

B. Contents of Facility Impact Report

(1) The facility impact report shall contain a socioeconomic report which shall include a comprehensive community inventory which shall identify the following:

- (a) The historic land use of the facility site;
- (b) Proximity of the proposed site to residences, schools, churches, public parks, agricultural land, nursing homes, hospitals, cemeteries, historic structures, and infant care facilities;
- (c) A general profile of the business community located in the vicinity of the facility site including any sites planned for future industrial parks or sites being considered for any business or manufacturing facility;
- (d) A description of any streets, highways, railroads, or waterways which may be used to transport solid waste

1004

to the proposed site, including information on capacity, usage, and routes;

(e) Cultural resources;

(f) Population data and projected population in the vicinity of the facility site; and

(g) A statement as to the impact on the community, including community perception, direct and indirect impact on the local economy and economic growth, and an analysis of the impact on land values in the vicinity of the facility site.

(2) The facility impact report shall contain an environmental impact report which shall identify existing environmental conditions in the vicinity of the facility site. To the extent that this data may be provided in the permit application required by state regulations, a verified copy of such permit application may be substituted for the environmental impact report required by this section. Nonetheless, such report is to include at a minimum:

(a) A geological report with a description of the soil types to include soil permeability, stability and drainage, and the geology down through and including the aquifer zones in the area;

(b) A hydrological report describing the hydrology and surface and groundwater quality and quantity in the area, including proximity to any aquifers and recharge areas and sensitive areas such as wetlands;

(c) Proximity to public and private surface or groundwater supplies, including current and potential future uses;

(d) A biological report indicating the presence of significant, threatened or endangered species;

(e) An air quality survey, including the characteristics (stability) of the atmosphere which affects the site and the population, present and projected, in relation to the facility and the prevailing wind;

(f) Flood plain identification;

(g) Historic, archaeological and natural sites and landmarks, outstanding resource waters, public forest areas, dedicated or designated open space, public recreational areas, wildlife refuges, gamelands, and fishing waters.

(00)

(3) The facility impact report shall include a risk assessment which shall quantitatively define the public health, safety and environmental risk associated with routine operations and upset conditions at the facility site. The scope and context of the impacts on the community will vary depending upon the nature, size, duration, and extent of the activity to be conducted at the facility site. The risk assessment shall analyze those items as identified by the Owen County Fiscal Court, which shall include the following:

(a) Risks associated with accidents in transportation, such analysis to include mode of transportation, route, schedule and frequency of deliveries, accident rate of mode and route, and the characteristics of structures and population, residential and nonresidential, within the reasonably predicted impact area;

(b) Nature, extent, quantity and impacts of routine releases to air, water, land from all sources at the facility site, including storm water run off;

(c) Nature, extent, quantity and impacts of releases to air, water, land in upset conditions, including both historical data from comparable facilities and modeling reasonable worst case upset conditions;

(d) Adequacy of emergency services (police, fire, medical) to protect public health, safety and environment from fire, explosion, flood, chemical release or any natural disaster, including emergency response capability and the owner/operator's emergency implementation plan;

(e) Projections of possible health effects with particular emphasis on occupational health, public health, chronic and acute exposure for both at the facility site and the surrounding area;

(f) Adequacy of transportation system in the event of emergency, including an evacuation plan.

Section 8.5 Fees

The owner or operator shall, by certified check made payable to the Owen County Fiscal Court, submit fees in accordance with the following schedule:

A. At the time of submission of the application for site approval the owner or operator shall pay to the Fiscal Court an application fee of Twenty Five Thousand (\$25,000.00) Dollars, which is to be held in escrow for payment of the reasonable expenses of reviewing and evaluating the application. Fees are required for new facilities and also for any modified or expanded existing facilities.

606

B. At the conclusion of the review process, the Owen County Judge/Executive shall tender to the owner or operator a statement setting out the actual cost incurred by the Owen County Fiscal Court for the use of qualified consultants for technical, accounting, or legal assistance and any other expenses incurred in the evaluation of the application and the facility impact report, which shall be payable upon receipt;

C. The Owen County Fiscal Court may not recover costs in excess of the actual cost of consultants and any other necessary and reasonable expenses incurred by the Owen County Fiscal Court.

D. An additional fee of Five Thousand (\$5,000.00) Dollars per year is due and payable each year on the anniversary of the issuance of the permit. Such fee shall be used to defray the costs of enforcement of this ordinance.

Section 9. Penalties

Any person who violates this ordinance shall be imprisoned for a period not to exceed one year or be subjected to a fine not to exceed Five Hundred (\$500.00) Dollars for each offense. Each occurrence, or, in the case of a violation of permit requirements, each day of violation shall constitute a separate offense.

Section 10. Public Health Hazard

Nothing in this ordinance or any site approval permit issued hereunder shall confer the right upon the owner/operator of any solid waste management facility to maintain a public health hazard or nuisance.

Section 11. Solid Waste Management Board

In the event that the Owen County Fiscal Court establishes a Solid Waste Management Board as provided by Chapter 109 of the Kentucky Revised Statutes, this ordinance shall be administered and enforced through the Solid Waste Management Board.

Section 12. Severability

The provisions of this ordinance are severable, and if any provisions, sections, paragraph phrase, sentence or clause or the application thereof is held by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining provisions of this ordinance.

Section 13. Effective Date

This ordinance shall become of full force and effect upon its publication and passage, except as provided otherwise herein.

007

Introduced, seconded and given first reading by the Owen County Fiscal Court this 27th day of December, 1995.

Second reading given and passed by the Owen County Fiscal Court this 13th day of February, 1996.

Tom Olds

Tom Olds,
County Judge-Executive

ATTEST:

Mary Kay Duncan

