

24.00

**ARTICLE XXIV
SANITARY LANDFILL AND WASTE DISPOSAL FACILITIES:****24.01 SPECIAL USE**

Prior to approval of the Planning Commission of a special exception use for a sanitary landfill facility, as herein defined, in any area of the Township, said board shall be certain that the following limitations and conditions are or shall be strictly complied with, in addition to any other requirements contained in the Township Zoning Ordinance, or in any other Township ordinance controlling such operations. The following rules and regulations shall apply specifically to each landfill area, unless county or state regulations on any particular requirement are more restrictive, and then such more restrictive regulation shall apply. Further provided, that no such sanitary landfill facilities shall be allowed within any areas zoned R-1, R-2, R-3 or within any platted subdivisions.

A. Location:

- 1.** All such operations shall be located on a state highway or county primary road, as defined by the County Road Commission of Grand Traverse County, for ingress and egress thereto, and on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations, as a condition of such operation, and for the purpose of routing traffic around residential areas. A stop sign shall be erected and maintained by the owner/ operator at all egress roads of the disposal area. Under no circumstances shall trucks use private drives or private access routes from the applicants' property which are within 150 feet of any residence.
- 2.** Sufficient setback shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such disposal area shall be permitted closer than 200 feet from the interior boundary lines. In addition, no disposal areas shall be permitted closer than 1000 feet to any domicile, or within 1000 feet of any residential district. No such disposal areas shall be permitted closer than 200 feet to adjacent public right-of-ways, property lines, lakes and streams. Such disposal areas shall at no time be permitted where adjoining lateral support for the maintenance of adjoining land is not maintained.
- 3.** Any permanent processing plant and its accessory structures shall not be located closer than 300 feet from the interior boundary lines. In addition, if located within 1,300 feet of a residence, it shall be obscured by a suitable barrier, not less than 10 feet high, with screening of a type to be decided on an individual basis by the Planning Commission at the time of application. Where practicable, the processing plant shall be as close to the center of the subject property as possible, and at a lower level than the surrounding terrain to lessen visual and noise impact. The foregoing shall not apply to the digging or excavating apparatus, nor to the stockpiling or loading and transportation equipment.

4. No disposal area shall interfere with the established natural flow of surface water or groundwater to the detriment of or damage to adjoining or nearby public or private properties. No waste, whether liquid or solid, may be disposed of, at or below ground level by spraying, burying, pumping, ponding or any other means if, in time, it may result in contamination of the soil or groundwater. The Planning Commission shall have the right to require an applicant to construct test wells, sediment basins and such other means of monitoring, controlling and/or containing sediment and contaminants as it may deem necessary for the protection of soils, groundwater and any watercourse or wetland within the watershed in which the disposal area is to be located. Disposal of such material in stormwater retention ponds is prohibited.

5. Any sanitary landfill area, located within the boundaries of the Township, whether publicly or privately owned shall be open to Township residents, property owners and businesses, during established business hours, at a rate competitive with other disposal areas in Northwestern Michigan. Other persons or parties may also be granted access to a public facility by the Township, subject to paying the charges established by the public body having jurisdiction. Special handling fees may be charged for bulky or difficult to process items. Hazardous materials, as defined in Public Act 64 of 1979 for the State of Michigan and defined by the Department of Natural Resources in its Hazardous Waste Management Rules, Sections R 299.630 through R 299.6317 inclusive, containing Rules 301-317 exclusively, and dated February 5, 1981, are prohibited.

6. Greater isolation distances may be required by the Planning Commission if the sanitary landfill area being proposed, is adjacent to special quiet zones, as designated by local or state government.

B. Sight Barriers and Fencing:

1. Sight barriers shall be provided along all setback lines of the sites which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of the following: A berm of at least 10 feet in height and plantings of evergreen trees, not more than 10 feet apart, or shrubbery not more than 5 feet apart, in staggered rows, on the berm, parallel to the boundaries of the property. Evergreens shall be at least 2-year transplants at the time of planting, and shall grow to not less than 10 feet in height; and shall be sufficiently spaced to provide effective sight barriers when 10 feet in height. Trees or shrubs which die must be replaced.

The requirements for screening by means of a berm and plantings may be reduced or eliminated by the Planning Commission if the particular site and terrain of the subject property (with screening of a reduced height), will afford adequate sight barriers for adjoining property owners, residents or passers-by.

2. The sanitary landfill area is to be fenced with an 8 foot high chain link fence with 3 strands of barbed wire angled 45 degrees toward the outside of the premises on the top. Such fence shall be located inside of any berms or screening following the exterior boundaries. The entrance to the sanitary landfill area shall have a gate which shall be closed and locked at all times that the landfill is not open.

C. Nuisance Abatement.

1. Air pollution, noise and vibration, and their effect upon adjacent properties shall be minimized by the utilization of adequate sound-proofed equipment and buildings designed to accomplish such minimization, and by the proper use of berms, walls and natural planting screens. Interior and adjoining roads used in the solid waste disposal operations, shall have their surfaces treated to minimize any condition.
2. Rodent traps, if needed, shall be placed every 100 yards, around the perimeter of the sanitary landfill area, inside the fence, and shall be regularly inspected and cleaned, not less frequently than once each week.
3. Any security lighting deemed necessary by the owner/operator shall be the sodium vapor type and shall be aligned so that no part of the illuminated field shall fall on any adjoining residential property.
4. Every sanitary landfill facility, which accepts refuse, shall have adequate water supply and facilities for quick delivery of water to any part of the property, for the purpose of extinguishing fires. Capacity shall be such that at least 50 gallons of water per minute can be applied to any fire, continuously, for at least 10 hours. The source of the water supply and the facilities to provide for the delivery of the water shall be indicated on the plans submitted for approval by the Planning Commission.
5. All litter shall be collected from the sanitary landfill site by the end of each working day and either placed in the fill, compacted and covered that day, or stored in a covered container.
6. In winter operations, snow and ice shall be removed before any material, either refuse or earth cover, is placed on the fill. A supply of unfrozen earth cover material shall be maintained and available, either in protected stockpiles or in a natural bank protected from, or not subject to, freezing. Frozen cover materials shall not be placed on the fill.
7. Prior to the commencement of the construction of any landfill within the Township, the owner/operator of the proposed landfill shall obtain from each lake, stream, creek, watercourse and private, residential, agricultural and commercial waterwells, a water sample for complete chemical analysis. These water samples shall be taken from each of the aforementioned water sources within a mile radius of the exterior boundaries of the property acquired for the construction of the landfill. These samples shall contain the exact location from which they were obtained, the name and address of the property owner who owns the land from which the water sample was taken, and the name and address of the principle user of the waterwell, if different from the owner of the property upon which the well is located. The owner/operator of the proposed landfill shall turn these samples over to a properly accredited laboratory for complete analysis. The results of the individual analysis shall be certified by the laboratory, and then filed with the Township Clerk, for the purpose of future reference, should there at some later date be suspected groundwater contamination. In addition, copies of the quarterly monitoring test well results shall be delivered to the Township promptly upon receipt by the owner/operator.

D. Time Limits.

All operations, other than the maintenance of equipment within a fully-enclosed building, shall be conducted only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, and 7:00 a.m. and 3:00 p.m. on Saturdays and legal holidays. A sign stating the hours and prohibiting dumping of other items shall be placed in a conspicuous location at the entrance. Keys for admittance to the disposal area shall be given to the Township Clerk. Disposal facilities shall have qualified personnel on duty during hours of operation to direct the dumping, spreading, compaction and covering of materials.

E. Liability Insurance.

All applicants shall be required to carry personal injury and property damage insurance, in addition to any and all bonds required by the state statute, while any open or un-rehabilitated area exists. Such insurance shall be in the amount of not less than \$1,000,000 for each person injured or property damaged, or for any injury or damage to more than one person or one person's property, arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operation, as well as upon properties adjoining thereto, as the result of conditions or activities existing upon the site. Such policies shall be filed with the Township Clerk, and shall be maintained in effect for a period of not less than 20 years following final closure and termination of sanitary landfill activities. The deductible written into the insurance policy shall not exceed 5% of the per incident limit of the liability of the policy. The coverage obtained by the owner/operator to fulfill the requirements of this section shall include the provisions that the insurer shall notify the Township 30 days prior to the cancellation of the insurance for any reason.

F. Closure of Disposal Areas.

Reclamation or rehabilitation of sanitary landfill areas shall be accomplished as soon as practical following the completion of an area. Where possible, such reclamation or rehabilitation shall be accomplished concurrently with the facility's operations. Substantial completion of reclamation and rehabilitation shall be effected within 2 years after the termination of the waste disposal facility. Inactivity for 12 consecutive months shall constitute, for this purpose, termination of disposal activities. Technical standards which shall control the final reclamation and rehabilitation of the site, and the post-closure monitoring of the site shall be the rules and regulations written by the department of Natural Resources, Resource Recovery Division, Solid Waste Management, for the State of Michigan pursuant to Public Act 641 of 1978, as amended, being Section 299.401 et seq, of the Michigan Compiled Laws and known as the Solid Waste Management Act, or other similar acts which may provide such regulation hereafter.

G. Submission of Operation and Closure Plans.

No sanitary landfill activities shall be allowed or commenced until a plan has been submitted to the Township Planning Commission, disclosing compliance with all of the provisions within this Ordinance, or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:

1. A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto, abutting public streets, and whether or not the same are on state or county primary roads, additional roads, if any, to be constructed and the location and nature of abutting improvements of adjoining properties.
2. The number of acres and the location of the same, proposed to be operated upon within the following 12-month period after commencement of operations.
3. The type of sanitary landfill proposed to be constructed, the nature of the equipment to be used and the materials to be accepted.
4. A survey by a registered surveyor, showing the location of the principal disposal site and the distance of any proposed operations, and the boundaries of the site.
5. A map disclosing the approximate final grade and the levels to be established following completion of the disposal areas, including the proposed uses being contemplated for the future use of the land, and other such matters as may evidence the bona fide nature of the rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed waste disposal area.
6. A map disclosing the location of all lakes, streams, creeks, water-courses and public, private, residential, agricultural and commercial waterwells from which the samples will be taken for analysis, as stipulated in C(7) of this section.
7. A written agreement, signed by the owner/operator of the proposed disposal area, agreeing to abide by the following plan for solutions to groundwater contamination, should such contamination occur as a result, or suspected result of his disposal operations.

H. A Trust Fund for the Mitigation of Landfill Problems.

1. A trust fund shall be established at a convenient bank, within the County, chosen by the Township Board. The operator shall agree to pay \$.10 per cubic yard, of waste disposed of, into this trust fund for the life of the sanitary landfill. Expenditures from the trust fund are to be approved by a committee consisting of one citizen appointed by the Township Board, the Township Supervisor, and one representative of the owner/operator. Funds may be used but are not limited to off-site litter control, groundwater and surface water monitoring and payments to adjacent property owners, and others, at the discretion of the committee, for damages that have been caused as a result of the sanitary landfill or its operations. The trust fund shall exist and earn interest for 20 years following closure, and at that time the funds remaining shall be paid to the owner/operator or its successors or assigns.
2. The mitigation of environmental degradation shall be accomplished by limiting the amount of new leachate produced; steps shall be taken which restrict the movement of existing pollutants in the water. When domestic, agricultural or commercial wells lie in the path of a contaminated plume, one of the following possible solutions to the problems of public health, hazard and environmental degradation shall, at the discretion of the Township be required of the owner/operator of the landfill:

a. Immediate purging of the groundwater. Studies must be conducted, at the expense of the owner/operator of the waste disposal area, to determine the extent of the groundwater contamination, cleanup required, and the timetable by which the cleanup will proceed.

b. Provision of an alternate water supply. This shall include, but not be limited to:

1. Locating uncontaminated groundwater.
2. Providing bottled water. This shall be a temporary measure, designed to prevent health hazards until another system can be prepared. This service shall be terminated once a permanent water supply system becomes operational.
3. Hooking into an existing municipal water supply system.

The owner/operator of a sanitary landfill reasonably suspected of contamination of the groundwater for residence, farms or businesses, shall guarantee the cost of the construction of the extension of a municipal waterline to the affected area, and the cost of the hookup to this water supply. The Township shall pay for any oversizing of the line to permit the extension of service to areas not affected by the leachate. The owner/operator of the sanitary landfill may make an unrestricted cash payment to the Township to carry out its responsibility to the residents in obtaining for them uncontaminated water. This option shall be at the discretion of the proper authority. If the water is available to the residents of the affected area, it will assume sole responsibility for establishing water rates, assessments and connection charges, and for the granting of waivers of any of these charges to residents whose water supply is endangered by the leachate and for policies governing the system operation and waiver policy.

If the Township does not agree to make water available to its residents, the entire issue shall revert back to the landfill owner/operator's responsibility. The Township shall assume no responsibility or liability for any injuries or property damage resulting from the sanitary landfill operations.

I. Financial Guarantee - Closure and Rehabilitation:

Financial Guarantee shall be given to the Township, insuring the proper closure and rehabilitation of the solid waste disposal area. The amount of the guarantee shall not be less than \$5,000 (Five Thousand dollars) per acre of disposal area, but not less than \$20,000 nor more than \$200,000 for the area proposed to be licensed by the State, or which has previously been operated upon during any preceding period and which has not been reclaimed or rehabilitated. All such financial guarantees shall be reviewed annually on or about the anniversary date of the sanitary landfill construction permit, for adjustment in compliance of the foregoing requirements, by the Zoning Inspector of the Township or other such official as may be designated by the Township Board. In this regard, the amount of the financial guarantee may be increased or decreased, based upon the cost of living index, promulgated by the U.S. Department of Labor, using the effective date of this ordinance amendment as the base period for the \$5,000 per acre amount. Such financial guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit or a corporate bond of a licensed insurance company, eligible to insure disposal facilities in Michigan. The corporate bond, if it is used, shall be a performance bond which shall be filed with the Township Clerk governing all portions of the sanitary landfill operation required to be maintained in accordance with these regulations, guaranteeing the satisfactory performance of these regulations. The bond shall not be

cancelable for nonpayment of premium on disposal areas already worked, and shall continue in force for 1 year after closure and reclamation of the sanitary landfill facility.

For all sanitary landfill areas, the minimum financial guarantee shall be at least \$20,000, provided to the Township, if less than 5 acres are required to be covered by the financial guarantee at any time. The bond shall be filed with the Township before the permit is issued, and on or before the first of each year thereafter.

A recommendation by the Planning Commission and approval by the Township Board shall be based upon the criteria set forth within said Ordinance and shall be based, in addition, on a consideration of the following:

1. The most advantageous use of the land, resources and property.
2. The character of the area in question and its particular suitability, if any, for the particular use.
3. Conservation of property values as well as natural resources and the general appropriate trend and character of development in the subject area.
4. The protection and preservation of the general health, safety and welfare of the Township.
5. The scarcity or value of waste disposal areas as compared with the effect upon adjacent communities near the proposed operation.

The Planning Commission may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same.

J. Existing Sanitary Landfill Operations:

All licensed sanitary landfill operations existing on the effective date of this Ordinance shall be subject to the within regulations with regard to future operations; however, such pre-existing disposal area shall be allowed to continue in operation on its then existing land. A special Exception Use shall not be required therefor.