

**CHAPTER 120.300**  
**SOLID WASTE DISPOSAL SITES**

- 120.310. Purpose and Scope
- 120.315. Definitions
- 120.320. Conditional Uses
- 120.325. Minimum Standards
- 120.330. Application for a Conditional Use Permit
- 120.335. Preliminary Permit
- 120.340. Procedures
- 120.345. Issuance of Permits
- 120.350. Amendments to Conditional Use Permit
- 120.355. Coordination with the Solid Waste Disposal Committee and Regulatory Agencies
- 120.360. Standards for Solid Waste Disposal Site Rehabilitation and Restoration
- 120.365. Suspension or Revocation of Solid Waste Disposal Sight Permit
- 120.370. Failure to Maintain Site or Conditions
- 120.375. Administration and Enforcement
- 120.380. Required Agreements and Liens

### **120.310. PURPOSE AND SCOPE.**

- (A) To protect the health, safety and welfare of the people of Polk County and to provide a coordinated program for accumulation, storage and disposal of wastes and solid wastes, it is deemed essential to:
  - (1) Provide necessary sites for disposal of wastes and solid wastes;
  - (2) Provide for a coordinated solid waste disposal program and encourage regional solid waste disposal systems;
  - (3) Provide for coordinating zoning regulations with the Polk County Solid Waste Collection and Disposal Ordinance;
  - (4) Provide standards and procedures for reasonable protection of adjacent or nearby land uses;
  - (5) Provide for rehabilitation and ultimate site use for disposal sites after discontinuance of use for disposal;
  - (6) Provide for preliminary planning permit to allow initial consideration of disposal sites in coordination with other affected federal, state, and local agencies;
  - (7) Provide for disposal sites and special regulations for accumulation, storage, or disposal of toxic or hazardous wastes.
- (B) This ordinance shall not apply to the growing or harvesting of crops or timber including, but not limited to, silvicultural practices or to agricultural operations conducted on premises owned or in possession of the person disposing of wastes or solid wastes on such premises.
- (C) The intent and purpose of this section is to permit the location and development of solid waste disposal sites in appropriate locations in any zone in Polk County subject to the minimum standards herein set forth and any conditions established by the Hearings Officer, without a showing of hardship and after notice and public hearing as provided for in Section 120.340.

Notwithstanding the allowable uses in any other district in Polk County, any person initiating an operation as described in Section 120.310 to 120.380.

### **120.315. DEFINITIONS.** As used in Section 120.310 to 120.380, unless the context requires otherwise, the following definitions shall apply:

- (A) **Dispose or Disposal.** Includes accumulation, storage, collection, transportation, and disposal of solid wastes;
- (B) **Person.** Includes the State of Oregon, any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever.
- (C) **Solid Waste.** All putrescible and nonputrescible wastes, whether in a solid or in a liquid form, except liquid-carried industrial wastes or sewage or sewage hauled as an incidental part of a septic tank or cesspool cleaning service, but including garbage, rubbish, ashes, sewage sludge, street refuse, industrial wastes, swill, demolition, and construction wastes, abandoned vehicles or parts thereof, tires, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, dead animals and other discarded solid materials;
- (D) **Solid Waste Disposal Site or Sites.** Any land used for disposal of solid wastes, including but not limited to, dumps, landfills, sanitary landfills, incinerators, and composting plants, but not including a landfill site which is not used by the public

either directly or through a disposal service and which is used by the owner or tenant thereof to dispose of sawdust, bark, soil, rock, building demolition material or nonputrescible industrial waste products resulting from the process of manufacturing;

- (E) Waste. Useless, unwanted or discarded materials.

**120.320. CONDITIONAL USES.** The following uses may be permitted as conditional uses within all zoning districts by the Hearings Officer, notwithstanding the use limitations of each zone, subject to the conditions and procedural requirements set forth in Sections 120.310 to 120.380.

- (A) Solid Waste Disposal Site.
- (B) Except within the Exclusive Farm Use, Farm Forest, and Timber Conservation zones, sites for the disposal of special materials or hazardous wastes when, and only after the Hearings Officer has approved the special materials and for inclusion in the site;
- (C) A residence for a caretaker;
- (D) Buildings, structure, apparatus or other appurtenances necessary for these uses to be carried on. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.325. MINIMUM STANDARDS.** The following minimum standards shall apply to the establishment, maintenance, and operation of solid waste disposal sites within Polk County. The particular concerns of these provisions are providing for an adequate number of solid waste disposal sites to meet the needs of Polk County and the property location of solid waste disposal sites including access to and from the sites, the appearance of such sites as they relate to the surrounding area and for the ultimate reuse of such sites.

- (A) Screening. The site shall be reasonably screened from adjoining developed properties and public streets or highways by the placement of landscaped yards and areas adjacent to every property line, within which yard or area will be placed an ornamental fence, wall or hedge or landscape berm. This shall be in addition to such desirable vegetation as may exist within the landscaped area. Where the landowner or the holder of a franchise for the site has obtained an interest in adjacent property for the purpose of providing adequate screening or where an appropriate governmental agency provides such screening, the Hearings Officer may accept such screening in lieu of that otherwise required by this subsection. This screening, whether on the same or other property, shall continuously obscure the view of the site and the landowner or franchise holder shall be responsible for maintenance of such screening.
- (B) Access Roads. All access to the site shall be by a route or routes approved by the County Engineer and the Hearings Officer.
- (C) Control of Operation Time. Except for such activities as office machinery repair and the equivalent, in residential, farm or commercial districts, a limit shall be placed on the operating time from 4:30 a.m. to 9:30 p.m. This limitation on operating time may be waived by the County Engineer in times of public or private emergency for the duration of such emergency. Other activities may be conducted outside the allowable time if they fall within standards established for industrial uses as set forth in Section 112.400 (A)(6). [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.330. APPLICATION FOR A CONDITIONAL USE PERMIT.** Application by the landowner shall be made to the Hearings Officer on forms furnished by the Planning Director. Each application shall be accompanied by:

- (A) An accurate plot plan showing exterior boundaries of the property on which the disposal site is to be located and the location of any existing or proposed structures,

roads, proposed operating areas or other improvements, and the topography of the proposed site;

- (B) A plan for rehabilitation and use of the site after the disposal has been terminated for a use permitted within the zone in which the land is located. Such a plan shall be prepared at a scale of not less than 1"=400' with topographic contours, an interval of which shall not be less than 25 feet. In its discretion, the Hearings Officer may require a map or plan showing greater detail to determine compliance with this ordinance and standards established by the Hearings Officer.
- (C) A copy of the application to the governing body of Polk County for a franchise pursuant to the Solid Waste Collection and Disposal Ordinance if the site is to be owned or to be operated by a person other than a governmental agency;
- (D) An agreement required by Section 120.380 of this ordinance;
- (E) Except for applicants who have previously paid for a preliminary permit on the same site, a conditional use permit fee will be paid. [Amended by Ordinance #88-21, dated November 30, 1988.]

#### **120.335. PRELIMINARY PERMIT.**

- (A) In view of the extensive investigations which must be undertaken in coordination with federal, state and local agencies, persons desiring to obtain a solid waste disposal site conditional use permit may make application to the Hearings Officer and the Hearings Officer may grant preliminary approval of a proposed site without notice to interested persons or a public hearing.
- (B) The Hearings Officer shall consider the location, the general proposal for access and site operations, the need for the site, the needs of the area, and the proposed restoration and rehabilitation of the site. The Hearings Officer shall review the application as soon as possible after the petition has been filed. The granting of a preliminary permit is not binding either on the Hearings Officer or the applicant but is given to the applicant only as a guide. A conditional use permit application may be filed pursuant to Section 119.020 regardless of the recommendation of the Hearings Officer to this Section.
- (C) Each application for a preliminary permit shall be on forms furnished by the Planning Director and shall be accompanied by a fee. The preliminary permit application may be withdrawn at any time; however, the fee shall not be returned. The application shall be accompanied by any franchise application as required pursuant to Section 119.020 for a conditional use permit.
- (D) Test wells, test holes, or any other engineering tests may be conducted under a preliminary permit.
- (E) Except for existing solid waste disposal sites that qualify as nonconforming uses, no person holding a preliminary permit therefore shall establish, operate, or maintain a solid waste disposal site unless and until a conditional use permit has been issued by the Hearings Officer. [Amended by Ordinance #88-21, dated November 30, 1988.]

#### **120.340. PROCEDURES.**

- (A) Notice and public hearings upon an application for a conditional use permit under Section 120.320 shall be provided as required by Chapter 111.
- (B) Notice of the decision of the Hearings Officer shall be given as provided in Section 111.270.

- (C) Decisions of the Hearings Officer on conditional use applications under Section 120.320 shall be subject to the appeal provisions in Section 111.280 and the call of the Board of Commissioners as provided in Section 111.290.

**120.345. ISSUANCE OF PERMITS.**

- (A) The Hearings Officer shall make such investigations as are necessary to determine whether the proposed site conforms fully to the regulations set forth herein.
- (B) In addition to the requirements of Sections 120.310 to 120.380, the Hearings Officer may prescribe additional restrictions or limitations when granting a preliminary permit or a conditional use permit for a proposed site. The Hearings Officer may prescribe such additional conditions as it deems necessary to fulfill the purpose and intent of this ordinance after finding that such conditions are necessary for the public health, safety, or general welfare or to protect persons working or residing in the area, or to protect property or improvements in the area, or to protect the aesthetic qualities of the area, or to protect the environmental quality of the area.
- (C) The Hearings Officer may not reduce or change the requirements specified in Sections 120.310 to 120.380, except when proceedings have been held for variance of these requirements by the Hearings Officer pursuant to Chapter 122, provided that an application for variance may be filed with and considered concurrently with the conditional use application, except that the notice of hearing shall separately state the variance applied for. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.350. AMENDMENTS TO CONDITIONAL USE PERMIT.** When the conditional use permit holder wishes to amend the plans for the site or for the restoration or reuse of such site after a final permit has been granted, he shall make an application for such change and shall furnish a fee together with all information and agreements that would have been required had such change been included in the initial plans, information and agreements submitted to the Hearings Officer. The Hearings Officer shall follow the same procedure for notice and hearing as if the amendment were a new application for such a conditional use. The notice and hearing shall be limited to the subject of a requested change in plans. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.355. COORDINATION WITH THE SOLID WASTE DISPOSAL COMMITTEE AND OTHER REGULATORY AGENCIES.** The Hearings Officer will make every effort to assist in the coordination and review of the application with the Polk County Solid Waste Committee and all federal, state, local or other agencies. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.360. STANDARDS FOR SOLID WASTE DISPOSAL SITE REHABILITATION AND RESTORATION.**

- (A) The purpose of this section is to ensure the future use of site after its use as a solid waste disposal site has been completed. A restoration plan shall be consistent with the land use planning policies and ordinance of Polk County.
- (B) The landowner and the holder of any franchise to operate the site shall be jointly and severally liable for the eventual site restoration as described in the plans submitted with the permit application as provided in Section 120.380.
- (C) Upon completion of the use of the site for solid waste disposal according to the permit and plan, or upon economic abandonment of the site as a disposal site, the landowner and the holder of any franchise to operate the site shall have a reasonable time to rehabilitate and restore the site as described in the restoration plans.
- (D) Except for buildings or structures which are permitted uses in the zone in which the site is located, upon termination of the use of the site for solid waste disposal, all

buildings, equipment, apparatus and appurtenances necessary to the operation shall be removed from the site unless an extension is granted by the Hearings Officer. A grant of additional time by the Hearings Officer shall not excuse any delay in the restoration or rehabilitation of those portions of the property under permit which are not affected by such extension.

- (E) All excavations and pits shall be backfilled, leveled, contoured, or both, for the uses shown on the restoration plan and shall be compatible with the final depth and slope of the site.
- (F) Topsoil shall be replaced to sufficient depth to allow landscaping material to be installed.
- (G) When appropriate, the Hearings Officer may specify a schedule of rehabilitation for portions of the property as their use for solid waste disposal operations is completed or terminated. The schedule shall be considered part of the rehabilitation or restoration plan and shall be included in the agreements required by Section 120.380. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.365. SUSPENSION OR REVOCATION OF SOLID WASTE DISPOSAL SITE PERMIT.**

- (A) In addition to the provisions of Section 119.140, the Hearings Officer may, after a public hearing, at which all interested persons have a right and opportunity to be heard, suspend a solid waste disposal site permit for failure to comply with Sections 120.310 to 120.380 or other applicable provisions. Prior to such hearing, the Hearings Officer shall obtain a recommendation from the Polk County Solid Waste Committee. Before any action of suspension is finally ordered by the Hearings Officer, the Hearings Officer shall obtain the concurrence of the governing body.
- (B) The Hearings Officer may, following the same procedures specified in (A) of this section, revoke a solid waste disposal site permit for failure to comply with Sections 120.310 to 120.380 or other applicable provisions. The Hearings Officer shall make a finding prior to revocation that there is an immediate and serious danger to the public, an immediate and serious threat or actual pollution of air, water or surrounding land or other serious hazard or public nuisance. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.370. FAILURE TO MAINTAIN SITE OR CONDITIONS.** The landowners, as the hold of a conditional use permit, and the holder of any franchise to operate the site, shall establish, operate and maintain the site within the terms and conditions set forth in Sections 120.310 to 120.380 and in the conditional use permit. Compliance with this section shall be a conditional to a conditional use permit and shall be enforceable by the agreement required in Section 120.380.

**120.375. ADMINISTRATION AND ENFORCEMENT.** It shall be the duty of the County Building Official, County Health Officer, and County Engineer to enforce Sections 120.310 to 120.380. Prior to issuance of a preliminary permit or of a conditional use permit, prior to establishment of any site and during the operation, maintenance or restoration or rehabilitation of such site pursuant to Sections 120.310 to 120.380, it shall be the duty of said officials to determine compliance with those sections and with any condition imposed by the Hearings Officer. For this purpose, the County Engineer, County Health Officer or County Building Official, or their duly authorized representatives may enter upon public or private property to perform any such duty. In addition to the right of entry specified by this section, the landowner as hold of the conditional use permit and the holder of any franchise to operate the site shall agree to this right of entry as provided in Section 120.380.

### **120.380. REQUIRED AGREEMENTS AND LIENS.**

- (A) The governing body finds and declares that a properly established, maintained, operated, and rehabilitated solid waste disposal site is a utility facility necessary for public service and, as such, is a valuable asset in improving environmental quality of the County. The Board further finds and declares that an improperly established, operated, maintained, or rehabilitated site may become a public or private nuisance, produce a condition of unsightliness, establish a health hazard or otherwise create a condition detrimental to the environmental quality of the area and of the County. To implement these findings, the governing body further finds and declares that it is necessary and appropriate to require agreements from the landowners who apply for a conditional use permit the agreements required by this section and further finds and declares that the appropriate remedy to reimburse costs of the County incurred in enforcement of Sections 120.310 to 120.380 is, upon failure of the landowner or franchise holder to pay such costs, the imposition of lien against the premises.
- (B) On forms issued by the Planning Director, the landowner who is applying for a conditional use permit for a site pursuant to Sections 120.310 to 120.380 and the holder of any franchise to operate such site, shall jointly and severally agree to accept, to be responsible for or to be liable for:
  - (1) The entry upon subject premises by named officials pursuant to Section 120.375.
  - (2) Proper establishment, maintenance, and operation of the site as required by Section 120.370.
  - (3) Rehabilitation and restoration of the site upon termination for use as a disposal site pursuant to Section 120.360.
- (C) In the event the landowner or the franchise holder does not comply with his agreement executed pursuant to subsection (B) of this section and within a reasonable time after written notice to comply, the governing body may institute proceedings under subsection (D) of the section to enforce compliance. "Reasonable time" within this subsection shall be determined by the Hearings Officer upon the basis of the health, safety, and welfare of the people of Polk County and of the area and in determining what is a reasonable time, the Hearings Officer may give consideration to, but shall not be limited by the following:
  - (1) The nature of the deficiency;
  - (2) Conditions created by the deficiency;
  - (3) Hazard to health or safety;
  - (4) The creation of a condition of unsightliness;
  - (5) The creation of a public or private nuisance;
  - (6) Whether there is a satisfactory alternative practice, procedure or operation.
- (D) In the event that the landowner or franchise holder fails to comply with the order of the Hearings Officer within the time specified by the Hearings Officer, the Hearings Officer shall notify the governing body. The governing body may institute proceedings for enforcement by giving 30 days written notice to the landowner or franchise holder, or both, at their last known addresses. The Board may shorten the notice period to not less than 24 hours notice if the governing body finds an immediate or serious danger to the public through the creation of a health hazard or a public or private nuisance. After required notice, the governing body may hold a public hearing at which all interested persons shall have the right to be heard. After such public hearing and on the basis thereof, the governing body shall have the

power to order appropriate county agencies to correct the deficiencies in the establishment, maintenance or operation of the site, or to make the required rehabilitation and restoration.

- (E) The costs incurred by the County in carrying out subsection (D) of this section shall be paid by the landowner or the franchise holder or both. If not paid, the governing body may order appropriate action to be taken to impose a lien upon the subject premises.
- (F) The Hearings Officer may order the filing in the County Deed Records of the conditional use permit including the agreements executed pursuant to this section as a recorded encumbrance on the real property to assure compliance with the conditions and agreements. [Amended by Ordinance #88-21, dated November 30, 1988.]