

§ 153.086 EXCLUSIVE USE-LANDFILL (EU-L) DISTRICT.

(A) *General intent.* The Exclusive Use-Landfill zoning district is intended to provide for the development of sanitary landfills and related facilities. Certain complementary or ancillary uses are also permitted. Appropriate standards for the district are designed to ensure compatibility and to minimize any conflicts with all other uses located in close proximity to landfill uses. Suitable uses in this district include sanitary landfills, transfer stations, recycling facilities, composting facilities, waste water treatment facilities, waste solidification, truck or wheel wash, soil borrowing, renewable natural gas facilities, household hazardous waste facilities, agricultural uses, wildlife refuge or similar public purpose use, landfill gas to energy facilities, solar energy facilities, landfill maintenance facilities, waste hauling facilities and associated maintenance facilities, and compressed natural gas (CNG) facilities. Adequate and suitable transportation infrastructure, access, screening, and environmental protections are a necessity to this district. Landfill uses must be screened from more restrictive uses as set forth in this chapter.

(B) *Purpose and objective.* The purpose and objective of this zone is to place sanitary landfills in an exclusive use zone in order to establish site location and design standards which will:

(1) Protect public health by preventing water pollution, rodent infestation, air pollution, or other health hazards and nuisance-causing activities as would occur as a result of improper location, design or operation of a landfill.

(2) Protect public safety by requiring proper design of access roads to accommodate the heavy equipment necessary for collection, transportation and disposal of solid wastes.

(3) Promote public welfare by requiring adequate screening and setbacks in the design and location of a landfill, regular policing and maintenance of access roads and heavily traveled routes to the site, limiting nuisance-causing activity, restricting hours of operation, and prudent review of subsequent uses allowed on the landfill site. All development shall be designed in such a way as to minimize negative impact on the surrounding area and to protect surrounding properties from incompatible development.

(4) Protect public health and promote public welfare by providing a suitable location for the disposal of the solid wastes generated by the community and preserve the nature of the surrounding properties. Existing trees on a development site shall be retained where possible. Screening, natural barriers (such as steep slopes, bodies of water, and heavy vegetation), or other buffers may be required to give adequate separation between uses which are marginally compatible and shall also be provided for the beautification and enhancement of the property.

(C) *Applicability.* The requirements and performance standards as herein provided shall apply to all new sanitary landfills or new expansions of lawful sanitary landfills. Furthermore, all parties recognize that the Arkansas Department of Environmental Quality (ADEQ) or its successor agency is responsible for issuing permit(s) authorizing and regulating sanitary landfills pursuant to Arkansas Pollution Control and Ecology Commission, Regulation No. 22 or future successor agency rules, regulations, or laws. All parties recognize that the Arkansas legislature has promulgated statutes regulating solid waste facilities and establishing the Arkansas Pollution Control and Ecology Commission. Should conflicts exist between ADEQ regulations, Arkansas law, or City of Tontitown ordinances, the more stringent regulation shall be imposed to the extent that such regulation is not specifically prohibited or preempted by federal or state regulations.

(D) *Principal permitted uses.* Sanitary landfill and associated operational and maintenance facilities.

(E) *Accessory uses.*

(1) Transfer stations

- (2) Recycling facilities
- (3) Compost facilities
- (4) Household hazardous waste facilities
- (5) Agricultural uses
- (6) Wildlife refuge or similar public purpose use
- (7) Landfill gas to energy facilities
- (8) Solar energy facilities
- (9) Landfill maintenance facilities
- (10) Waste hauling facilities and associated maintenance facilities
- (11) Compressed natural gas (CNG) facilities
- (12) Renewable natural gas facilities
- (13) Waste solidification pit
- (14) Waste water treatment facilities
- (15) Truck or wheel washing facilities
- (16) Scale facilities
- (17) Soil borrow site (can be located within the 250-foot setback)

(F) *Standards of development.* These standards shall apply to all new landfill uses, new expansions of an existing landfill use, and accessory landfill uses.

(1) *Ownership control.* The land in a sanitary landfill shall be owned, leased, or otherwise controlled by a person, firm, group of individuals, partnership, corporation, or trust, provided assurances are given through the procedures contained herein that the landfill can be successfully operated and managed, and is properly permitted by the ADEQ.

(2) *Site structure requirements.*

(a) *Minimum lot area.* There shall be no minimum lot area requirement, except that a site must be of sufficient size to accommodate the amount of waste estimated for deposit during the current life or the future permitted life of the landfill.

(b) *Minimum lot width.* 100 feet.

(c) *Setback requirements.* The principal permitted use, including all activities related to operation of the principal permitted use, shall meet the following minimum setback requirements, unless adjacent to other property currently being used as sanitary landfill:

1. Front yard setback 100 feet
2. Rear yard setback 100 feet for nonresidential uses, 250 feet for residential uses (including residential and agricultural zoned properties)
3. Side yard setback 100 feet for nonresidential uses, 250 feet for residential uses (including residential and agricultural zoned properties)
4. Maximum building height 45 feet
5. Maximum structure height to comply with ADEQ standards.

(d) *Accessory uses, buildings and/or structures, or site modification beyond the approved boundaries of disturbance for the primary landfill use or existing approved expansion.* All accessory uses, buildings and/or structures, or site modification beyond the approved boundaries of disturbance for the primary landfill use or existing approved expansion (including, but not limited to, parking lots, modification to detention ponds, etc.) except those as set forth in divisions (E)(5) and (E)(6) above, shall meet the same large scale development site and structure requirements as principal permitted uses and shall be set out in the application, and shall require large scale development review and approval.

(e) *Access.* In order to protect the public health, safety, welfare, and the surrounding environment, public access shall be controlled to prevent unauthorized entry or vehicular traffic by using artificial barriers, natural barriers, or both, as appropriate. An adequate fence with a gate that can be locked must be provided at the entrance to the facility.

(f) *Litter control.* Litter control provisions shall be maintained at all times. If daily or more frequent cover does not control on- and off-site litter, other methods may be required, such as, but not limited to litter fences and litter crews. Litter screening fences will be provided near the landfill working face to prevent the spread of paper and other litter.

(g) *Screening.* Screening shall be provided so that the landfill is minimally visible to any residential or commercial structure, or from any public street. Screening can include a combination of fencing, vegetation, or other provisions which shall accomplish the same.

(h) *Sign and directions.* Necessary identification and directional signs shall be provided. A sign shall be posted at the entrances to inform the public of the hours of operation, charges for disposal, and rules and regulations regarding disposal. All new signage shall comply with regulations found in § 153.180. Modifications and additions to signage that are not considered regular maintenance shall conform to regulations found in § 153.180. Interior site signage shall be provided that directs users to the appropriate unloading area.

(i) *Lighting.* Lighting at the landfill shall be provided in such a way so as not to interfere with roadway traffic, spill over unnecessarily onto adjacent properties, and/or pollute the night sky, except that lighting for temporary projects, such as construction, maintenance, or emergencies, may temporarily spill over onto adjacent properties or inhibit the night sky. All lighting shall comply with regulations found in § 152.150.

(j) *Excessive noise.* No equipment that causes excessive noise (beeping, honking, banging, dumping, heavy engine sounds, or other) shall cause disturbance to residents of neighboring properties between the hours of 9:00 p.m. and 5:00 a.m. Monday-Saturday, except for emergencies may temporarily be allowed outside the above hours. No excessive noise shall be allowed on Sunday except for emergencies may temporarily be allowed outside the above hours.

(k) *Parking.* One space per employee shall be required plus one space per 500 square feet of office space.

(l) *Buffer.* The landfill shall be adequately buffered on all sides between the footprint of the permitted or planned waste disposal area and the perimeter boundary of the property so as to offset fugitive dust, noise, vibration and visual impact to adjacent property. All screening and buffering shall be completed on site. The buffer areas shall be landscaped and graded consistent with the approved site plan.

(3) *Large scale development requirements.* In addition to large scale development requirements found in §§ 152.095 et seq., the following shall be required with the large scale development application:

(a) *Traffic study; traffic patterns and roadway provisions.* At large scale development, a traffic study shall be required when there will be an increase in traffic, a change in the traffic pattern, or in the

case of an expansion, an extended time period in which traffic will impact public roads.

1. The site should be easily reached by asphalt or concrete paved city or county truck roads, state highways or federal interstates. All roads to the site should be of sufficient width and construction to safely handle the sizes of trucks that deliver waste to landfills when fully loaded during all weather conditions, excluding events of force majeure.

2. Problems such as narrow bridges, low underpasses, and steep grades on access routes must be avoided. The city may require the applicant to pay in whole or in part the cost to the city for providing roadway improvements necessary for the siting of a new landfill, or any new expansion of a landfill that extends the time period in which traffic will impact public roads. In addition, the following standards must be met:

a. The traffic patterns to and from the site have been designed to minimize the impact on existing traffic flows.

b. Safe design of entrances and exits, with provision for right turn deceleration lanes, protected left turn lanes, acceleration lanes and, if needed, signalization of intersections.

c. The site should be accessible at all times. Several access routes are planned so that if one route is temporarily unusable, the site can still be reached.

d. The distance of driveway entrance or exit from any adjacent lot line should be at least 125 feet. The landfill access drive shall be paved, no less than 250 feet, up to 500 feet, to be determined at plan review, from the public street.

e. The on-site roads to the unloading area should be of all-weather construction and wide enough to permit two-way truck travel. Road grades should be designed for the largest fully loaded trucks to travel at a reasonable rate.

f. Provide existing information regarding vehicle trips per day, and provide an estimate of increase in vehicle trips per day by type of vehicle.

g. Current and anticipated daily traffic flows to the landfill by vehicle type.

h. Assessment of expected impact on the routes proposed by the landfill and recommendations for those routes.

i. The City of Tontitown shall have final jurisdiction regarding heavy truck traffic routes.

(b) *Operations site plan.* At large scale development the applicant shall submit an operations site plan and statement. The plan and statement shall indicate the following:

1. Proposed fill area(s).
2. Proposed borrow area(s).
3. Access roads.
4. On-site drives.
5. Grading plan and cross-sections to identify landfill height.
6. Location and height of fencing and buffering.
7. Existing and proposed structures on site.
8. Existing natural areas to be preserved.
9. Existing and proposed utilities.

10. Conceptual timetable and sequence of phasing of landfill operations.
11. Management of storm water and drainage devices.
12. Management of leachate.
13. Management of landfill gas and odors.
14. Planned hours of operation.
15. Management of litter and vector control.
16. Management of vehicular mud tracking onto public streets.

17. Facility management and its employees are properly trained in landfill operations and an emergency response program is provided.

(c) *Large scale development site plan.* In addition to large scale development requirements found elsewhere in this code, the following shall be shown on the large scale development plan:

1. Large scale site development plans prepared by a licensed professional engineer in the State of Arkansas.
2. Haul routes to and from the landfill site with load limits or other restrictions.
3. Existing and proposed zoning classification, use of property, number of employees per use (office staff/drivers/other).
4. Ownership and zoning of all adjoining properties. Applicant may obtain and rely upon property ownership information from the online property records published and maintained by the Washington County, Arkansas appraisal district.
5. Zoning within one mile.
6. Residential structures and other buildings within one mile with use indicated, if use is known. The best available resources shall be used to help determine use.
7. Existing and proposed property lines.
8. Existing and proposed rights-of-way, setbacks and buffer areas.
9. Watercourses, floodways, flood plains, and wetlands.
10. Location of all existing and proposed structures. All structures shall be delineated in square feet, and dimensions between structures and between property lines and the structures shall be provided.
11. Existing and proposed structures shall be labeled as to their use.
12. Existing and proposed parking spaces. Notation of the number of spaces provided.
13. Existing on-site roads shall be shown.
14. Access to all public streets including radius of ingress/egress drives, and circulation patterns.
15. Location and size of existing or proposed signs. All proposed signs will be permitted separately.
16. A screening plan for the site.
17. All dumpster areas serving office or ancillary facilities shall be screened.

18. Any other reasonable information deemed necessary by the Planning Official.

(d) *Drainage plan and report.* The drainage plan and report shall meet the standards set by the City of Tontitown by the adopted "Tontitown Drainage Criteria Standard" manual.

(e) *Conceptual future land use plan.* The written landfill future land use plan shall include the following:

1. The applicant shall address how closure and post-closure care will be provided and affirm that it will be in compliance with applicable Arkansas Regulations.

2. Future land uses shall comply with applicable city and State of Arkansas regulations.

(G) *Application for landfill siting and EU-Exclusive Use District reclassification.* The applicant shall submit an application for zoning district reclassification and local site approval to the Planning Official based on the standard submittal schedule. A complete application includes the following:

(1) *A completed application form.* The application must be on forms as provided by the city. The application form must be signed by the owner(s) of the property as such and, if applicable, the entity seeking the reclassification as applicant.

(2) *Fee.* The fee established by the City Council to defray processing costs.

(3) The filing deadline for inclusion on the Planning Commission agenda shall be the 1st Tuesday of the month prior to the Planning Commission meeting, which is held on the 4th Tuesday of the month.

(4) *Notice.* In addition to notice requirements for amendments to the zoning code, found in §153.283(F), the following notification requirements shall apply:

(a) The applicant shall present evidence to the zoning official, at least ten days prior to the required public hearing, that all property owners within 1,000 feet of the boundaries of the subject property have been sent notification of the proposed use, and of the time, date, and place of the hearing. The notification shall include a vicinity map.

(b) Applicant may obtain and rely upon property ownership information from the online property records published and maintained by the Washington County, Arkansas appraisal district in providing notice to such property owners. Such evidence shall consist of postmarked, certified receipts and/or return receipts, and/or dated, signed acknowledgments of receipt of notification; and shall be accompanied by a plat map showing the location of those properties, the owners of which the applicant certifies have been so notified.

(5) Warranty deed showing the current ownership of the property is required.

(6) Legal description of area to be considered for rezoning and address of parcel(s).

(7) Boundary survey by land surveyor registered to practice in the State of Arkansas.

(8) Concept plan showing:

(a) North arrow.

(b) Scale.

(c) Section lines and/or other legal boundaries.

(d) Location of current and proposed landfill areas. No zoning for a landfill expansion shall be considered beyond the boundaries of a previously approved Geographic Site Approval from the appropriate Solid Waste Management District or controlling authority with jurisdiction to approve the expansions of landfills.

(9) The city will require a notice filing for the pre-application and application submitted to ADEQ for the new landfill or for expansion of an existing landfill, and any solid waste permit issued by the ADEQ for the site.

(10) In addition, it is recommended that the applicant provide a narrative, a typed statement addressing each of the following:

(a) State the current zoning designation and proposed zoning designation. An explanation of the proposed zoning change including current owner information.

(b) Reason (need) for the requested zoning change.

(c) Statement of how the property will relate to surrounding properties including:

1. How the use will be compatible with surrounding uses.
2. A traffic statement with expected impact.
3. A drainage statement with expected impact.
4. Any anticipated signage to be added or modified.
5. Overall appearance of the site.

(d) Statement regarding operations to include:

1. Conceptual timetable and sequence of phasing of landfill operations.
2. Management of storm water and drainage devices.
3. Management of leachate.
4. Management of landfill gas and odors.
5. Planned hours of operation.
6. Management of litter.
7. Management of vehicular mud tracking onto public streets.

(H) *Approval criteria.* The criteria for approval of a rezoning are set out in this division. Not all of the criteria must be given equal consideration by the Planning Commission or City Council in reaching a decision. The criteria to be considered shall include but not be limited to the following:

(1) Consistency of the application with the applicable zoning regulations and comprehensive plan.

(2) Consistency of the application with the purpose of these regulations, including the protection of the public health, safety, and welfare. In addition, the following standards shall be met:

(a) Public health shall be protected by preventing water pollution, ground water contamination, excessive noise, odor or dust, leachate contamination, methane gas exposure, rodent infestation, air pollution, or other health hazards as would occur as a result of improper location, design, or operation of a landfill.

(b) Public safety shall be ensured by requiring proper design of access roads to accommodate the heavy equipment necessary for collection, transportation and disposal of solid wastes.

(c) Public welfare shall be protected by providing a suitable location for the disposal of the solid wastes generated by the community.

(3) Compatibility of the application's proposed use with the zoning, existing uses and existing character of the surrounding area. The site is located so as to minimize incompatibility with the existing character of the surrounding area.

(4) The extent to which approval of the proposed rezoning will detrimentally affect nearby property includes, but is not limited to, any impact on property value, traffic, drainage, visual impairment, odor, noise, light, vibration, hours of use/operation, and any restriction to the normal and customary use of the affected property. Impact of the proposed development on community facilities and services, including those related to utilities, street drainage, parks, open space, fire, police, and emergency medical services.

(l) *Subsequent zoning.*

(1) The Exclusive Use District (EU) designation replaces the previous zoning classification and, upon completion of the sanitary landfill operation, no other use shall be permitted without a rezoning and map amendment as provided in this chapter.

(2) Variance. Whenever strict application of the requirements or standards of this section would result in substantial hardship or injustice, the applicant may seek a variance if appropriate through the procedures set forth in § 153.262.

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