

Chapter 610

POLLUTION CONTROL FACILITY SITING

Sec. 610-1 Definitions

The following definitions shall apply to these terms when used in this chapter:

"Applicant" is any person, firm or partnership, association, corporation, company or organization of any kind who files a request for site approval pursuant to this resolution.

A "Hazardous Waste Disposal Site" is a site at which hazardous waste is disposed. "Hazardous Waste" is waste as defined in the Illinois Environmental Protection Act, (hereinafter referred to as the Act) as amended (Illinois Revised Statutes, Chapter 111 1/2, Paragraph 1001 et seq).

A "Regional Pollution Control Facility" is any waste storage site, sanitary landfill, waste disposal site, waste transfer station or waste incinerator that accepts waste from or that serves an area that exceeds or extends over the boundaries of any local general purpose unit of government in Carroll County. A Regional Pollution Control Facility is also any facility defined as such in the Act.

"The Regional Pollution Control Hearing Committee" (committee) is the committee appointed by the County Board Chairman whose function is to attend the public hearings on requests for site approval, make factual findings, and make recommendations regarding the requests for site approval to the County Board.

"County" is Carroll County, Illinois.

"County Board" is the Carroll County Board.

"EPA" is the Illinois Environmental Protection Agency.

In addition, all other words used in this Ordinance [chapter] and defined in the Act shall have the same definitions and meanings as found in the Environmental

Protection Act.

Sec. 610-2 Application.

- (a) A minimum of twenty (20) complete copies of requests for site approval, including twenty (20) copies of all site plans, exhibits, and maps, shall be filed in the office of the Carroll County Clerk. Upon receipt of any such request for site approval, the County Clerk shall date stamp same and immediately deliver eight (8) copies of the request for site approval to the Chairman of the County Board, one copy to the hearing officer, and one copy to the State's Attorney. The applicant shall also file one additional copy of the request for site approval for each municipality within one and one half (1 1/2) miles of the proposed facility. The application shall include one set of cepia or mylar prints and/or computer data discs of all drawings.
- (b) A copy of the request for site approval shall be made available for public inspection in the office of the County Clerk and members of the public shall be allowed to obtain a copy of the request for site approval or any part thereof upon payment of the actual cost of reproduction. All copying requests shall be fulfilled by the County Clerk within a reasonable time from the time of the request.
- (c) Requests for site approval shall be of the form as provided by the County Board and shall include the following:
 - (1) A written petition on 8 1/2" x 11" paper with sets forth:
 - (A) the identification of the applicant and owner, and if the proposed site is owned in a land trust, each beneficiary of such land trust by name and address and his or her defined interest therein;
 - (B) the legal description of the proposed site and a street address or some other reasonable description of where the proposed site is located;
 - (C) a description of the proposed facility, its operation and the expected longevity thereof;

- (D) the area to be served by the proposed facility and a statement of the needs for such area for such a facility;
 - (E) a list of the existing Regional Pollution Control Facilities located within or serving or capable of serving the area proposed to be served and, with respect to each such facility, the following information shall be provided: location, size, owner and/or operator, type of pollution control facility, remaining capacity, probable life of the proposed facility, and types of wastes received;
 - (F) the expected types, amounts and methods of treatment or storage of all wastes proposed for the site and the origins of these wastes;
 - (G) a description of the geologic and hydrogeologic character of the site, including core samples, the monitoring plans, including and background analyses for ground water, surface water and air;
 - (H) financial and personal information necessary to assure the financial integrity and qualifications of the operator of the facility;
 - (I) reasons supporting approval of the application;
 - (J) a prayer for site approval.
- (2) The request for a permit made to the Illinois Environmental Protection Agency, if any such request has been made.
 - (3) A site plan showing details of the proposed facility including but not limited to:
 - (A) cross sections;

- (2) all existing wells within 500 feet of the site;
 - (3) all monitoring wells;
 - (4) fences, buildings and other structures;
 - (5) roads, entrances, and driveways; and
 - (6) core sample locations on and within 200 feet of the site.
- (4) A detailed topographic survey of the subject site and the surrounding area within 500 feet which indicates land use and, if applicable, the boundary of the 100 yard flood plain.
- (1) A statement of the plan of operation for the proposed facility, including but not limited to the following:
- (A) method of landfilling, incineration, resource recovery or other process;
 - (B) hours of operation;
 - (C) personnel;
 - (D) litter, vector, dust and odor control;
 - (E) surface drainage and erosion control;
 - (F) fire control;
 - (G) corrective actions for spills and other operational accidents;
 - (H) if applicable, the stages of development or use;
 - (I) an end use plan with an explanation of how the subject land shall be returned to its pre-existing condition at the end of the facilities

useful life.

- (5) A statement or report of traffic information regarding the proposed site including the anticipated number of vehicles and their size, weight and direction of movement.
- (6) All physical evidence (except oral testimony) including but not limited to studies; maps; reports; permits or exhibits which the applicant desires the County Board to consider at the public hearing. It is intended that the applicant provide a full and complete disclosure of his case to facilitate early review and analysis by all parties.
- (7) Certificates of insurance verifying the insurance policies carried by the applicant to cover single accidents, such as fires, explosions, non-sudden accidental occurrences and pollution impairment.
- (8) If the site is a proposed hazardous waste facility, a copy of the Resource Conservation Recovery Act Contingency Plan.
- (9) A statement describing the past operating experience of the applicant (and any subsidiary, parent corporation, or subsidiary of the parent corporation), in the field of solid waste management.
- (10) A statement citing the past record of convictions or admissions of violations of the applicant, (and any subsidiary, parent corporation, or subsidiary of the parent corporation). Said statement shall include, but not be limited to, a citation of the applicable statute or ordinance violated; a brief written summary of the violation or conviction; and the penalty imposed.
- (11) An explanation of how the facility will affect the local government.
- (12) A \$250,000.00 application fee in the form of a certified or

cashier's check to cover notice costs, court reporter costs, transcription costs, county consultant costs, hearing officer costs, and other expenses incurred by the County in conducting the review of the request for site approval, the subsequent public hearing, and the site approval decision, provided however, that any portion of the application fee that remains unexpended at the conclusion of the site approval decision, including appeals shall be returned to the applicant. Should there be any additional costs incurred by the County over the amount paid by the applicant in the application fee, the applicant shall bear any and all additional costs. ~~That~~ In the event the petitioner represents a written petition for site approval of a "waste transfer station" only, that a reduced application fee in the amount of \$50,000.00 will be accepted to cover notice costs, court reporter costs, hearing officer costs and other expenses incurred by the County in conducting the review of the request for site approval, the subsequent public hearing, and the site approval decision. ~~That~~ In the event that at anytime prior to the conclusion of the site approval decision, the County has expended such sums as to reduce the balance of the Application fee to a figure less than \$2,500.00, the petitioner upon notice, shall contribute an additional \$2,500.00 to the application fee to cover costs as described above. Any portion of the fees, including any additional fees that remain unexpended at the conclusion of the site approval decision shall be returned to the applicant.

- (14) The pages of the application and all exhibits submitted to the County shall be consecutively numbered.
- (a) An application for site approval may not be filed which is substantially the same as a request which was disapproved pursuant to a finding against an applicant under any of the criteria 1 through 9 of Section 610-8 (b) of this Ordinance within the preceding two (2) years.
- (b) No application for site approval shall be deemed to have been filed or accepted for filing unless all of the requirements of this Ordinance applicable thereto shall have been met and the County Clerk shall not give a receipt or other indication of filing until such time as it is determined by the State's Attorney that the application complies with

the requirements of this Ordinance. Within a reasonable period of time after delivery of an application, the County Clerk shall advise the applicant:

- (1) Either that the application is complete and that it has been accepted for filing, designating the date of filing; or
 - (2) That the application is not complete, specifying wherein it is deficient.
- (c) The acceptance of the application by the County Clerk is a pro forma acceptance. The applicant is solely responsible for providing sufficient technical information to meet their burden of proving the criteria cited in Section 39.2 (a) of the Environmental Protection Act as may be amended from time to time.
- (d) In order to give members of the public an opportunity to make informed written comment pursuant to Section 39.1(c) of the Environmental Protection Act and to give members of the public and officials of the County an opportunity to prepare adequately and fairly for the public hearing hereinafter described, the applicant must fully comply with all application requirements as set forth in Section II, paragraph C hereof. Failure to comply with said application requirements shall render such required information inadmissible at said public hearing.
- (e) At any time prior to the completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for cross-questioning by the County Board and any participants, the applicant may file not more than one amended application upon payment of additional fees in the sum of \$50,000.00 (\$10,000.00 for transfer stations). Provided, however, that the time limitations for final action by the County Board shall be extended for an additional period of ninety (90) days.
- (f) Other amendments may be made, if in the opinion of the Hearing Committee any such proposed amendment is non-substantive and a majority of the Regional Pollution Control Hearing Committee allow such amendment.

Sec. 610-3 County Review

- (a) Upon receipt of a copy of a request for site approval, the County Clerk shall notify the following of such receipt:
 - (1) County Board Chairman
 - (2) State's Attorney
 - (3) Zoning Officer
 - (4) County Engineer
- (b) The aforementioned departments may attend the public hearings and may ask such questions as need to assist in reaching their recommendations.
- (c) The aforementioned officers are authorized to prepare and submit reports and recommendations in response to the request for site approval. Preliminary reports prepared by them and retained consultants summarizing and analyzing the request for site approval, reports, studies, exhibits and any written comments filed with the County Clerk, concerning the appropriateness of the proposed site, shall be filed with the County Clerk no later than 7 days in advance of the date set for hearing. In the event that the 7th day prior to the date set for public hearing falls on a Saturday, Sunday or holiday, the next working day shall be considered the day that reports shall be filed. Copies of departmental reports shall be available for public inspection in the office of the County Clerk. Members of the public shall be allowed to obtain copies of the reports upon payment of the actual cost of reproduction.
- (d) The officials described above and the consultants retained by the County are authorized to present testimony at the public hearing as hereinafter described.

Sec. 610-4 Other Parties.

All reports, studies, exhibits or other evidence or copies thereof, other than testimony, which any other person desires to submit for the record at the public

hearing must be filed with the County Clerk at least 10 days before the public hearing and shall be available for public inspection in the office of the County Clerk. In the event that the 10th day prior to the date set for public hearing falls on a Saturday, Sunday or holiday, the next working day shall be considered the day that reports, studies, and exhibits must be filed. The County Clerk shall date stamp any such reports, studies, exhibits or other evidence upon receipt and shall cause to have published no later than thirty (30) days after the date of filing of the application a black border notice stating that such evidence and application are available in the County Clerk's Office for public inspection. In the case of documentary evidence, members of the public shall be allowed to obtain copies of said documents upon payment of the actual cost of reproduction.

Sec. 610-5 Public Hearing.

- (a) No sooner than 90 days but no longer than 120 days from the date of filing of the request for site approval with the County Clerk, the Regional Pollution Control Hearing Committee shall commence a public hearing on the application.
- (b) Within ten (10) working days of the date upon which an application for site approval is accepted, the Chairman of the County Board shall designate seven (7) members of the County Board who shall serve as the Regional Pollution Control Hearing Committee. Two members of the committee shall constitute a quorum for the purpose of holding public hearings under this ordinance.
- (c) Within ten (10) working days of the date an application for site approval is accepted, the Chairman of the County Board shall set the date, time and location upon which such public hearing shall be commenced, but in any event the initial public hearing must be scheduled no sooner than 90 days but no later than 120 days from the date the request for site approval was filed with the County Clerk.
- (d) The Chairman of the County Board shall notify the County Clerk of the date upon which such hearing shall be commenced and shall request the County Clerk to cause notice of such hearing to be made as follows:
 - (1) Published two (2) legal notices in a newspaper of general

circulation published in the County. One such notice shall be published no later than sixty (60) days from the date of filing of an application and one such notice shall be published no later than seventy-five (75) days from the date of filing of an application.

Such notices shall consist of the following:

- (A) The name and address of the person, partnership or corporation requesting site location approval.
 - (B) The owner of the site, and in case ownership is in a land trust, the names of the beneficiaries of said trust.
 - (C) The legal description of the site.
 - (D) The street address of the property, and if there is no street address applicable to the property, a description of the site with reference to location, ownership or occupancy or in some other manner that will reasonably identify the property to residents of the neighborhood.
 - (E) The nature and size of the proposed development.
 - (F) The nature of the activity proposed.
 - (G) The probable life of the proposed activity.
 - (H) The time and date of the public hearing.
 - (I) The location of the public hearing.
 - (J) A statement that all copies of evidence other than testimony to be submitted at the public hearing must be filed with the County Clerk at least 10 days before the public hearing.
- (2) Certified mail to all members of the General Assembly from the

district in which the proposed site is located.

- (3) Certified mail to the Illinois Environmental Protection Agency.
 - (4) Certified mail to all municipalities and townships within one and one half (1 1/2) miles of the proposed facility.
 - (5) Public hearing notice in a newspaper of general circulation published as a display ad at least once during the week preceding the public hearing. Such notice shall consist of all items described in paragraph 1 above except for items 1(c) and 1(j).
- (a) The State's Attorney shall appoint the hearing officer for the public hearing on the request for site approval. The hearing officer shall preside over the public hearing and shall make any decisions concerning the admission of evidence and the manner in which the hearing is conducted subject to this Ordinance. The hearing officer shall make all decisions and rulings in accordance with fundamental fairness. The hearing officer may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony or other evidence. No ruling of the hearing officer shall be appealable to the County Board.
 - (b) The applicant for site location approval shall have the burden of going forward with evidence of the suitability of the site location for the proposed use and proof of compliance with the mandates of this Ordinance.
 - (c) Any person appearing at such public hearing by signing a written appearance shall have the right to give testimony and comment on the suitability of the site location for the proposed use. Any person shall have the right to be represented by an attorney at said public hearing. Such attorneys shall have the right of reasonable cross examination. Opportunity for any persons appearing at such public hearing to cross question any witness may be limited by the hearing officer..
 - (d) Conduct of the public hearing shall be substantially as follows:
 - (1) Call to order.

- (2) Introduction of the hearing committee and hearing officer.
- (3) Recognition of the applicant and identification of the request for site approval.
- (4) Recognition of fees, notices, and date of filing of the request for site approval.
- (5) Recognition of the County and other parties wishing to testify and any other reports, exhibits, maps, or documents of record as filed pursuant to this Ordinance. All parties, including members of the public, intending to testify or cross examine must sign in or submit written notification of said intent to the Regional Pollution Control Hearing Committee (c/o the Carroll County Board) on or before the first day of the public hearing. Should the public hearing extend beyond one day, additional parties or members of the public, not of record as of the first day of the public hearing will not be allowed to present testimony or cross examine.
- (6) The applicant, the County, and other parties may make an opening statement.
- (7) The Committee shall then hear testimony from the applicant and any witnesses the applicant may wish to call. Upon the close of the applicant's testimony, other parties may offer expert witnesses and evidence they may wish to present. These other parties may or may not be represented by counsel. Upon the close of the applicant's and other parties' testimony and evidence, the County may present any witnesses and evidence it wishes to present. Members of the public, of record, as set forth in Section V, paragraph I (5) above, may then present oral comment to the hearing committee. The hearing officer shall decide the order of presentation of testimony subject to this Ordinance.
- (8) All witnesses shall testify under oath. Testimony may include the use of exhibits. All witnesses shall be subject

to reasonable questioning as follows: direct, cross, redirect, recross, etc. After all parties have presented testimony, reasonable rebuttal, sur-rebuttal, etc., may be allowed at the discretion of the hearing officer.

- (9) Should any issues, facts, data, or other evidence arise during the course of the public hearing, which were not apparent or reasonably foreseeable by a party from the request for site approval as filed with the County Clerk, such situation may constitute grounds for a recess in the public hearing for a period not to exceed five (5) working days.
- (10) Summary statements by applicant, other parties and the County, subject to limitations as imposed by the hearing officer.
- (11) Rebuttal statement, if any, by the applicant, subject to limitations as imposed by the hearing officer.
- (12) Hearing closed.

Sec. 610-4 Public Comment.

- (a) The County Clerk (on behalf of the County Board) shall receive written comment from any person concerning the appropriateness of the proposed site. Upon receipt of any such written comment the County Clerk shall date stamp same and shall file written comment and the postmarked envelope in which comment is received.
- (b) Copies of such written comments shall be made available for public inspection in the offices of the County Clerk, and members of the public shall be allowed to obtain a copy of any written comment upon payment of actual cost of reproduction.
- (c) Any written comment received by the County Clerk or postmarked not later than 30 days after the date of the last public hearing shall be made part of the record at the public hearing as hereinafter described and the County Board shall consider any such timely written comments in

making its final determination concerning said request. In the event that the 30th day falls on a Sunday or a federal holiday, the next day on which mail is delivered shall be considered the 30th day for purposes of this paragraph.

Sec. 610-7 Record.

- (a) The County Clerk shall be responsible for keeping the record of said hearing.
- (b) The record shall consist of the following:
 - (1) The request for site location approval as described in Section II, paragraph C hereof.
 - (2) Proof of notice as described in Section V, paragraph D hereof.
 - (3) Proof of notice given by applicant pursuant to Section 39.2(b) of the Environmental Protection Act.
 - (4) Written comments filed by the public and received by the County Clerk or postmarked within 30 days of the close of the hearing.
 - (5) All reports, studies, exhibits or documents received into evidence at the public hearing.
 - (6) The transcript of the public hearing.
 - (7) Findings of fact and recommendations of the Committee.
 - (8) The Resolution containing the final decision of the County Board.
- (c) The County Clerk shall be responsible for certifying all copies of the record of the public hearing.

Sec. 610-8 Site Approval

- (a) After the public hearing and any continuation thereof, the Committee shall hold a public review meeting for purposes of establishing finds of fact and a recommendation concerning the site approval request. Any findings of fact and recommendations shall be supported by the record and shall be presented to the County Board Chairman which shall in turn submit same to the full County Board at least within 170 days from the County Clerk's receipt of the site approval request.
- (b) In making its recommendation on the request for site approval, the Committee shall base its decision on the following criteria:
 - (1) The facility is necessary to accommodate the waste needs of the area it is intended to serve;
 - (2) The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
 - (3) The facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;
 - (4) The facility is located outside the boundary of the 100 year floodplain, or the site is flood-
 - (5) The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;
 - (6) The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;
 - (7) If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;
 - (8) If the facility will be located within a regulated recharge

area, any and all applicable requirements specified by the Illinois Pollution Control Board for such area have been met; and

- (9) If the County Board has adopted a solid waste management plan, the facility is consistent with that plan;
- (c) The County Board shall consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary, parent corporation, or subsidiary of the parent corporation) in the field of solid waste management when considering criteria B.2 and B.5 under this Section.
- (d) The County Board shall consider the record from the public hearing and the findings of fact and recommendations of the Hearing Committee and shall make a determination concerning a site approval request at least within 180 days from the County Clerk's receipt of the site approval request. The County Board may conditionally approve any request for site approval provided such conditions are not inconsistent with regulations promulgated by the Illinois Pollution Control Board. Any determination by the County Board shall be supported by the record.
- (e) No determination by the County Board of a site approval request may be reconsidered.

Sec. 610-9 Administration of Fees and Costs.

- (a) All expenses incurred by the County or officials of the County, including the State's Attorney, in conducting the Review of the request for site approval, the subsequent hearing, and the site approval decision shall be paid from the fees as provided in this ordinance.
- (b) Upon termination of any proceedings under the hearing process, a final accounting and summary of all authorized expenditures and reimbursements shall be presented to the appropriate County Board committees.
- (c) Any portion of any application fee not required for reimbursement to

the County for costs or expenses incurred by the County under the hearing process shall be returned to the applicant. Should there be costs or expenses in excess of the amount paid by the applicant in the application fee, the applicant shall bear any and all additional costs.

- (d) In order to properly administer the application fee received with respect to the hearing process and procedure set forth herein, the County Treasurer is hereby authorized and directed to receive and hold such application fees for administration subject to the review and approval of the Environmental, Health and Aging Committee.

Sec. 610-10 Waiver of Rules.

In order to insure fundamental fairness, compliance with the Act, and to protect the public interest, the Hearing Committee, by majority vote of members (4) may waive any of the above rules except that such vote shall not conflict with nor override the provisions of Section 6 of this chapter.

Sec. 610-11 Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

History: Ordinance No. 0/-90 approved January 18, 1990 recorded at Book 2 Pages 334-350.

