

ORDINANCE NO. RC-2023-0914

ESTABLISHING HEALTH REGULATIONS FOR SOLID WASTE PROCESSING FACILITIES AND SOLID WASTE DISPOSAL AREAS; PROVIDING STANDARDS FOR THE PERMITTING OF SOLID WASTE DISPOSAL AREAS; PROVIDING DEFINITIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY.

WHEREAS, § 192.300, RSMo, provides that the County Commission may make and promulgate Ordinances as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county; and

WHEREAS, § 192.300, RSMo, provides that the County Commission may establish reasonable fees to pay for any costs incurred in carrying out such Ordinances and that any such fees generated shall be deposited in the county treasury and shall be used to support the public health activities for which they were generated; and

WHEREAS, § 192.300, RSMo, provides that any person, firm, corporation or association which violates any such Ordinance adopted, promulgated and published by the County Commission is guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law; and

WHEREAS, the County Commission has full power and authority to initiate the prosecution of any action under § 192.300, RSMO; and

WHEREAS, § 260.215.2, RSMo, provides, *inter alia*, "Any city or county may adopt ordinances or orders, rules, regulations, or standards for the storage, collection, transportation, processing or disposal of solid wastes which shall be in conformity with the rules and regulations adopted by the department for solid waste management systems. Nothing in sections 260.200 to 260.245 shall usurp the legal right of a city or county from adopting and enforcing local ordinances, rules, regulations, or standards for the storage, collection, transportation, processing, or disposal of solid wastes equal to or more stringent than the rules or regulations adopted by the department pursuant to sections 260.200 to 260.245;" and

WHEREAS, in *L.C. Development Company v. Lincoln County*, 26 S.W.3d 336 (Mo. App. E.D. 2000), the Court held, "A county may regulate the 'storage,' 'collection,' 'transportation,' 'processing,' or 'disposal' of solid wastes. Section 260.215.2 RSMo (1994). The county's broad regulatory powers permit it to regulate every aspect of the solid waste management process, from the initial collection of solid waste to its final disposal. 'Storage' is defined as "a space or a place for storing.' Webster's Ninth New Collegiate Dictionary 1162 (1991). If a county is permitted to regulate in every area of the solid waste operation, including the 'space[s] or place[s] for storing' solid waste, we conclude the county can also regulate the location of these spaces or places, namely the solid waste dumps;" and

WHEREAS, environmental and health standards and criteria for solid waste processing facilities and solid waste disposal areas consistent with state law have been prepared based upon state law and professional studies presented to and considered by the Randolph County Commission as well as the experience of the members of the Randolph County Commission with local conditions; and

WHEREAS, the adoption and enforcement of said standards is hereby found to be necessary in order to enhance the public health, prevent the entrance of infectious, contagious, communicable

1 or dangerous diseases into Randolph County, and to promote the orderly development of any solid  
2 waste disposal area or solid waste processing facility in Randolph County;

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4 NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF  
5 RANDOLPH COUNTY, MISSOURI, AS FOLLOWS:

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7 I. DEFINITIONS

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9 1. "City", any incorporated city, town, or village;
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11 2. "Commission," the Randolph County Commission;
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13 3. "Demolition waste", waste materials from the construction and demolition of  
14 residential, industrial, or commercial structures, but shall not include materials defined as clean fill  
15 under this section;
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17 4. "Demolition landfill", a solid waste disposal area used for the controlled disposal of  
18 demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete and inert solids  
19 insoluble in water;
- 20  
21 5. "Department", the Missouri Department of Natural Resources;
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23 6. "Financial assurance instrument", an instrument or instruments, including, but not  
24 limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund, submitted  
25 by the applicant to ensure proper closure and post-closure care and corrective action of a solid waste  
26 disposal area in the event that the operator fails to correctly perform closure and post-closure care and  
27 corrective action requirements, except that the financial test for the corporate guarantee shall not  
28 exceed one and one-half times the estimated cost of closure and post-closure. The form and content of  
29 the financial assurance instrument shall meet or exceed the requirements of the department. The  
30 instrument shall be reviewed and approved or disapproved by the prosecuting attorney;
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32 7. "Occupied Dwelling," any residence which has been occupied a minimum of one  
33 hundred and twenty (120) days during the twelve (12) month period immediately prior to the date upon  
34 which a Permit is issued by the Department;
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36 8. "Operator" and "permittee", anyone so designated, and shall include cities, counties,  
37 other political subdivisions, authority, state agency or institution, or federal agency or institution;
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39 9. "Person", any individual, partnership, limited liability company, corporation, association,  
40 trust, institution, city, county, other political subdivision, authority, state agency or institution, or federal  
41 agency or institution, or any other legal entity;
- 42  
43 10. "Populated Area," any circular area inscribed by a radius of 750 feet and a  
44 circumference of 4,712.39 feet that is not located on a Solid Waste Facility and which includes a platted  
45 subdivision and/or has at least five (5) Occupied Dwellings located within the area.
- 46

1           11.     "Sanitary landfill", a solid waste disposal area which accepts commercial and residential  
2 solid waste;

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4           12.     "Solid waste", garbage, refuse and other discarded materials including, but not limited  
5 to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental  
6 and domestic activities, but does not include hazardous waste as defined in §§ 260.360 to 260.432,  
7 RSMo, as amended, recovered materials, overburden, rock, tailings, matte, slag or other waste material  
8 resulting from mining, milling or smelting;

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10          13.     "Solid waste disposal area", any area used for the disposal of solid waste from more  
11 than one residential premises, or one or more commercial, industrial, manufacturing, recreational, or  
12 governmental operations;

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14          14.     "Solid waste management area", a solid waste disposal area which also includes one or  
15 more of the functions contained in the definitions of recycling, resource recovery facility, waste tire  
16 collection center, waste tire processing facility, waste tire site or solid waste processing facility,  
17 excluding incineration;

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19          15.     "Solid waste management project", a targeted project that meets statewide waste  
20 reduction and recycling priorities, and for which no solid waste management district grant applicant has  
21 applied to perform, and for which no qualified applicants have applied to perform such project by a  
22 competitive bid issued by the solid waste management district for the completion of such project;

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24          16.     "Solid waste management system", the entire process of managing solid waste in a  
25 manner which minimizes the generation and subsequent disposal of solid waste, including waste  
26 reduction, source separation, collection, storage, transportation, recycling, resource recovery, volume  
27 minimization, processing, market development, and disposal of solid wastes;

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29          17.     "Solid waste processing facility", any facility where solid wastes are salvaged and  
30 processed;

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32     II.        HEALTH AND ENVIRONMENTAL STANDARDS

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34           1.     In addition to the specific requirements as hereinafter set forth, all solid waste facilities  
35 shall be designed, constructed, and operated in accordance with all applicable laws and regulations  
36 currently in effect or as may hereafter be adopted by the Department of Natural Resources. Specific  
37 County requirements to protect public health, air quality, drinking water supplies, and water quality are:

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39           A.     No Solid Waste Facility shall be located less than two (2) miles (such mileage to  
40 be measured from the occupied dwelling wall point closest to the approved site to the closest boundary  
41 of the site to the occupied dwelling) from:

- 42  
43                   (1)     The defined incorporated limits of a City, Town, Village within the  
44                            limits of Randolph County.  
45                   (2)     A School or property owned and operated by any of the School  
46                            Districts or educational institutions within Randolph County.  
47                   (3)     Any Church or place of worship.  
48                   (4)     Any Populated Area or platted subdivision.

- (5) Parks, ball fields, and public recreational areas
- (6) Public or private wells used for purposes of supplying potable drinking water for human consumption. Any well used solely and exclusively for livestock watering is not included in this section.

B. No Solid Waste Facility shall be located less than one (1) mile from:

- (1) Any Occupied Dwelling. (such mileage to be measured from the occupied dwelling wall point closest to the approved site to the closest boundary of the site to the occupied dwelling)
- (2) Any cave or sinkhole;
- (3) Any losing stream or tributary of any losing stream;
- (4) Any stream segment of any Department-designated "Outstanding State Resource Waters;"
- (5) Any stream segment which has a Department-designated "Beneficial Use Designation" for "IRR-Irrigation," "LWP-Livestock & Wildlife Protection," "WWH-Protection of Warm Water Habitat," or "WBC-Whole Body Contact Recreation."

III. INSURANCE REQUIREMENTS FOR OPERATORS OF SOLID WASTE DISPOSAL AREAS, WASTE PROCESSING FACILITIES, AND TRANSFER STATIONS

A. No person shall construct or operate a solid waste disposal area, waste processing facility or transfer station until and unless the applicant acquires public liability insurance approved by the Commission governing all proposed operations of the applicant pertaining to the business of constructing and operating a solid waste disposal area, waste processing facility or transfer station, as the case may be, and covering all vehicles to be operated in the conduct thereof. The insurance shall be with an insurer acceptable to the Commission and shall include coverage in one (1) policy or multiple policies for any contractors or subcontractors engaged by the insured for such business. Evidence of such insurance shall be filed with the Commission. The minimum limits of insurance for public liability and auto liability shall be one million dollars (\$1,000,000.00) for bodily injury to each person; ten million dollars (\$10,000,000.00) for total bodily injury for each occurrence; and ten million dollars (\$10,000,000.00) for property damage for each occurrence. Total combined coverage per occurrence of twenty million dollars (\$20,000,000.00) for bodily injury and property damage shall meet the requirement of this Ordinance.

B. No person shall construct or operate a solid waste disposal area, waste processing facility or transfer station until and unless the applicant provides insurance with Workers' Compensation insurance, with minimum limits as set by law. The insurance must be approved by the Commission and shall be with an insurer acceptable to the Commission and shall include coverage in one (1) policy or multiple policies for any contractors or subcontractors engaged by the insured for such business.

C. No insurance policy required by this Ordinance shall be approved by the Commission unless it provides that notice will be given by the insurer in the event the policy is terminated or canceled.

D. The insured shall give notice to the Commission if any policy required by this Section is terminated, canceled and/or amended from time to time.

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2 IV. FINANCIAL ASSURANCE INSTRUMENTS; BONDING REQUIREMENTS; CLOSURE;  
3 POST-CLOSURE  
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5 A. No person shall construct or operate a solid waste disposal area, waste processing  
6 facility or transfer station without providing a financial assurance instrument ("FAI") for operation of the  
7 facility as provided by this Ordinance. If the facility is a landfill, the FAI must be approved by the County  
8 Prosecuting Attorney. The FAI shall be in addition to, but in the same amount of and contain the same  
9 terms and conditions in the FAI required by the Missouri Department of Natural Resources for the  
10 facility. If a cash bond is offered, the cash shall be deposited in an interest-bearing account with the  
11 Randolph County Treasurer, with any interest accruing on the bond belonging to Randolph County. The  
12 FAI shall include the following:  
13

14 1. That the operator and the operator's agents and employees will comply with all  
15 terms, conditions, provisions, requirements and specifications of the approved waste facility plan and  
16 license.  
17

18 2. That the operator and the operator's agents and employees will comply with all  
19 ordinances, rules, regulations, statutes, and other laws of the State of Missouri, Randolph County, and  
20 of authorities having jurisdiction over the facility.  
21

22 3. That the operator will indemnify and hold harmless the Commission and  
23 Randolph County from any expense incurred through the failure of the operator or the operator's agents  
24 and employees to operate and maintain such facility as required by this Ordinance, including any  
25 expense to which the Commission or Randolph County may be put for correcting any condition or  
26 violation of this Ordinance, and any damages accruing to the Commission and Randolph County arising  
27 out of the negligence of the operator, the operator's agents or employees.  
28

29 B. No person shall operate a solid waste disposal area, waste processing facility or transfer  
30 station which does not provide the FAI required for closure and post-closure maintenance as described  
31 in or as may be imposed pursuant to § 260.227, RSMo, as amended.  
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33 V. ENFORCEMENT  
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35 A. No person shall operate a solid waste disposal area, waste processing facility or transfer  
36 station in a manner that does not comply with the waste facility plan approved by the Commission for  
37 such facility and which does not comply with the requirements of this Ordinance pertaining to operation  
38 of such facility. Failure to comply with any waste facility plan or the requirements of this Ordinance  
39 pertaining to operation of a solid waste disposal area, waste processing facility or transfer station shall  
40 be a violation by the person in whose name the license is issued, as well as every agent, employee or  
41 contractor assigned to construct or operate the facility who:  
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43 1. Performs acts precluded by the waste facility plan, the Missouri Solid Waste  
44 Management Law, §260.200 et seq., RSMo, as amended, or this Ordinance; or  
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46 2. Fails to conduct actions required by the waste facility plan, the Missouri Solid  
47 Waste Management Law, §260.200 et seq., RSMo, as amended, or this Ordinance; or  
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1                   3.       Fails to maintain conditions required by the waste facility plan, the Missouri  
2 Solid Waste Management Law, §260.200 et seq., RSMo, as amended, or this Ordinance; or

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4                   4.       Maintains conditions prohibited by the waste facility plan, the Missouri Solid  
5 Waste Management Law, §260.200 et seq., RSMo, as amended, or this Ordinance.

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7                   B.       Any person violating this Ordinance shall be subject to punishment by imprisonment or  
8 fine as provided by law. Each day a person operates a solid waste disposal area, waste processing  
9 facility, or transfer station in violation of this Ordinance, shall be considered a separate offense.

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11 VI.       SEVERABILITY

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13                   A.       The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are  
14 severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared  
15 unconstitutional or otherwise invalid by the valid judgment or decree of any Court of competent  
16 jurisdictions, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses,  
17 sentences, paragraphs, or sections of this Ordinance since the same would have been enacted by the  
18 Commission without the incorporation in this Ordinance of any such unconstitutional or invalid phrase,  
19 clause, sentence, paragraph, or section.

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21 VII.       REPEAL OF ORDINANCES NOT TO AFFECT LIABILITIES, ETC.

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23                   A.       Whenever any part of this Ordinance shall be repealed or modified, either expressly or  
24 by implication, by a subsequent Ordinance, that part of the Ordinance thus repealed or modified shall  
25 continue in force until the subsequent Ordinance repealing or modifying the ordinance shall go into  
26 effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or  
27 penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall  
28 not be affected, released, or discharged but may be prosecuted, enjoined, and recovered as fully as if  
29 this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly  
30 provided.

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32 VIII.      EFFECTIVE DATE

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34                   A.       This Ordinance shall be in full force and effect from and after its passage by the  
35 Commission, except as provided above.

36 PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

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38 \_\_\_\_\_  
39 Presiding Commissioner

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41 \_\_\_\_\_  
42 Commissioner

43  
44 \_\_\_\_\_  
45 Commissioner

46  
47 ATTEST:  
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1 \_\_\_\_\_  
2 County Clerk  
3  
4 \_\_\_\_\_  
5 Date