

455B.305A Local approval of sanitary landfill and infectious waste incinerator projects.

1. Prior to the siting of a proposed, new sanitary landfill, incinerator, or infectious medical waste incinerator, a city, county, or private agency, shall submit a request for local siting approval to the city council or county board of supervisors which governs the city or county in which the proposed site is to be located. The requirements of this section do not apply to the expansion of an existing sanitary landfill owned by a private agency which disposes of waste which the agency generates on property owned by the agency. The city council or county board of supervisors shall approve or disapprove the site for each sanitary landfill, or incinerator, or infectious medical waste incinerator.

Prior to the siting of a proposed new sanitary landfill or incinerator by a private agency disposing of waste which the agency generates on property owned by the agency which is located outside of the city limits and for which no county zoning ordinance exists, the private agency shall cause written notice of the proposal, including the nature of the proposed facility, and the right of the owner to submit a petition for formal siting of the proposed site, to be served either in person or by mail on the owners and residents of all property within two miles in each direction of the proposed local site area. The owners shall be identified based upon the authentic tax records of the county in which the proposed site is to be located. The private agency shall notify the county board of supervisors which governs the county in which the site is to be located of the proposed siting, and certify that notices have been mailed to owners and residents of the impacted area. Written notice shall be published in the official newspaper, as selected by the county board of supervisors pursuant to section 349.1, of the county in which the site is located. The notice shall state the name and address of the applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity, and a description of the right of persons to comment on the request. If two hundred fifty or a minimum of twenty percent, whichever is less, of the owners and residents of property notified submit a petition for formal review to the county board of supervisors or if the county board of supervisors, on the board's own motion, requires formal review of the proposed siting, the private agency proposal is subject to the formal siting procedures established pursuant to this section.

2. An applicant for siting approval shall submit information to the city council or county board of supervisors to demonstrate compliance with the requirements prescribed by this chapter regarding a sanitary landfill or infectious waste incinerator. Siting approval shall be granted only if the proposed project meets all of the following criteria:

a. The project is necessary to accommodate the solid waste management needs of the area which the project is intended to serve.

b. The project is designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.

c. The project 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. The city council or county board of supervisors shall consider the advice of the appropriate planning and zoning commission regarding the application.

d. The plan of operations for the project is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents.

e. The traffic patterns to or from the project are designed in order to minimize the impact on existing traffic flows.

f. Information regarding the previous operating experience of a private agency applicant and its subsidiaries or parent corporation in the area of solid waste management or related activities are made available to the city council or county board of supervisors.

g. The department of natural resources has been consulted by the city council or board of supervisors prior to the approval.

3. No later than fourteen days prior to a request for siting approval, the applicant shall cause written notice of the request to be served either in person or by restricted certified mail on the owners of all property within the proposed local site area not solely owned by the applicant, and on the owners of all property within one thousand feet in each direction of the lot line of the proposed local site property if the proposed local site is within the city limits, or within two miles in each direction of the lot line of the proposed local site property if the proposed local site is outside of the city limits. The owners shall be identified based upon the authentic tax records of the county in which the project is to be located.

Written notice shall be published in the official newspaper of the county in which the site is located. The notice shall state the name and address of the applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity, the date when the request for site approval will be submitted, and a description of the right of persons to comment on the request.

4. An applicant shall file a copy of its request with the department and with the city council or the county board of supervisors in which the proposed site is located. The request shall include the substance of the applicant's proposal and all documents, if any, submitted as of that date to the department pertaining to the proposed project. All documents or other materials pertaining to the proposed project on file with the city council or county board of supervisors shall be made available for public inspection at the office of the city council or county board of supervisors and may be copied upon payment of the actual cost of reproduction.

Any person may file written comment with the city council or county board of supervisors concerning the appropriateness of the proposed site for its intended purpose. The city council or county board of supervisors shall consider any comment received or postmarked not later than thirty days after the date of the last public hearing.

5. At least one public hearing shall be held by the city council or county board of supervisors no sooner than ninety days but no later than one hundred twenty days from receipt of the request for siting approval. A hearing shall be preceded by published notice in an official newspaper of the county of the proposed site, including in any official newspaper located in the city of the proposed site.

6. Decisions of the city council or the county board of supervisors shall be in writing, specifying the reasons for the decision. The written decision of the city council or the county board of supervisors shall be available for public inspection at the office of the city council or county board of supervisors and may be copied upon payment of the actual cost of reproduction. Final action shall be taken by the city council or the county board of supervisors within one hundred eighty days after the filing of the request for site approval.

At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for questioning by the city council or the county board of supervisors and members of the public, the applicant may file not more than one amended application upon payment of additional fees pursuant to subsection 9. The time limitation for final action on an amended application shall be extended for an additional ninety days.

7. Construction of a project which is granted local siting approval under this section shall commence within one calendar year from the date upon which it was granted or the permit shall be nullified.

8. The local siting approval, criteria, and other procedures provided for in this section are the exclusive local siting procedures. Local zoning, ordinances, or other local land use requirements may be considered in such siting decisions.

9. A city council or a county board of supervisors shall charge an applicant for siting approval, under this section, a fee to cover the reasonable and necessary costs incurred by the city or county in the siting approval process.

10. An applicant shall not file a request for local siting approval which is substantially the same as a request which was denied within the preceding two years pursuant to a finding against the applicant under the established criteria.

90 Acts, ch 1191, § 1; 92 Acts, ch 1182, § 2, 3; 94 Acts, ch 1023, §55