

# Solid Waste Planning

- Comprehensive Litter & Solid Waste Control Plans
- Recycling Plans
- Commercial Solid Waste Facility Siting Plans

# The Importance of Planning

- Planning is a statutory responsibility WV Code §22C-4-8
  - Planning sets minimum standards to protect public health;
  - Planning helps establish an integrated waste management system;
  - Planning ensures fair evaluation of all proposed solid waste management sites.

# Comprehensive Litter & Solid Waste Control Plans

## **WV Code §22C-4-8**

Authority to develop litter and solid waste control plan; approval by solid waste management board; development of plan by director; advisory rules.

## **WV Code Rule § 54CSR3**

Comprehensive Litter and Solid Waste Control Plans.

# Comprehensive Litter & Solid Waste Control Plans

**Each litter and solid waste control plan shall include provisions for:**

- **Goals and objectives of the authority;**
  - A 20 year timetable for the implementation of plan;
  - Timeline graph;
- **An assessment of existing conditions in the county;**
  - Status of existing solid waste management activities to include landfills, transfer stations, recycling and composting facilities;
  - Evaluation of existing solid waste collection and disposal services;
    - Provide list of haulers, map of hauler territories;
    - Estimate the number of households subscribe to service;
    - Identify demographics, population and waste projections for the next 20 years. How will changes affect your area of responsibility;

# Comprehensive Litter & Solid Waste Control Plans

**Each litter and solid waste control plan shall include provisions for:**

- **An assessment of existing conditions in the county (continued);**
  - Identify population densities such as urban concentrations;
  - Identify transportation conditions; major highways, rail ways, navigable water ways;
  - How will the transportation system affect waste management;
  - Identify the disposal of solid waste generated outside the boundaries of the county but disposed of in the county;
  - Describe actions taken by the authority to implement the waste hierarchy: 1.) source reduction; 2.) recycling, reuse and materials recovery; and 3.) landfilling;
  - Identify and develop strategy for managing industrial and commercial waste, provide list of businesses that produce 5 or more tons per month;

# Comprehensive Litter & Solid Waste Control Plans

**Each litter and solid waste control plan shall include provisions for:**

- **Identification of problems in the county or region**
  - Assessment of litter and solid waste problems; litter control, open dumps, residents not subscribing to garbage service, long distances to landfills;
  - A program for the cleanup, reclamation and stabilization of any open and unpermitted dumps;
- **Develop alternative approaches to problem solving;**
  - How will the authority manage fund allocation in relation to various responsibilities;
  - Describe the program for the enlistment of voluntary assistance. Identify ways to recruit volunteers for cleanup programs.
  - Develop a program to use inmate labor for litter control, open dump cleanup and other projects;

# Comprehensive Litter & Solid Waste Control Plans

**Each litter and solid waste control plan shall include provisions for:**

- **Develop alternative approaches to problem solving (continued);**
  - The establishment of solid waste collection and disposal services for all county residents at their residences, where practicable;
  - Coordination with state and local agencies;
  - Develop cooperative programs with county commissions, municipalities and other local government entities for program implementation; and
  - A recommendation for the siting of one or more properly permitted public or private solid waste facilities.

# Comprehensive Litter & Solid Waste Control Plans

**Each litter and solid waste control plan shall include provisions for:**

- **Mandatory Disposal, WV Code §22C-4-10**
  - Everyone in West Virginia is required to either subscribe to garbage service or to otherwise lawfully dispose of their trash;
  - SWAs are required to promulgate rules to implement a mandatory disposal program under W.Va. Code §22C-4-23; and
  - Should have provisions to work closely with haulers, local law enforcement and litter control officers.



# Comprehensive Recycling Plans

**The Comprehensive Recycling Plan shall include, but not be limited to:**

- The evaluation of the feasibility of requiring or encouraging the source-separation of residential or commercial solid waste prior to collection for the purpose of facilitating the efficient and effective recycling of such wastes;
- Designation of recyclable material that can be most effectively source separated – to include at least three materials;
- Characterization of the waste stream to determine the quantity of materials potentially available for recycling;
- Designation of potential strategies for the collection, marketing, and disposition of designated source-separated recyclable materials;
- Description of the existing and anticipated markets for resource recovery, materials recovery, recycling, and composting facilities within the area;

# Comprehensive Recycling Plans

## The Comprehensive Recycling Plan shall include, but not be limited to:

- A public education program, to include the goals and objectives of the recycling educational efforts;
- Identification of target audiences and the development of appropriate messages and formats;
- Identification of methods to disseminate information and the development of an effective media relations strategy;
- An estimate of the likely program recovery rate through an analysis of residential, commercial, and industrial recycling potential;
- A copy of any ordinance adopting a county recycling program; and
- Innovative incentives to promote recycling efforts.

# Commercial Solid Waste Facility Siting Plans

## **WV Code, §22C-4-24**

Commercial solid waste facility siting plan; facilities subject to plan; criteria; approval by Solid Waste Management Board; effect on facility siting; public hearings; rules.

## **WV Code Rule §54CSR4**

Commercial Solid Waste Facility Siting Plans.

# Commercial Solid Waste Facility Siting Plans

**WV Code §22C-4-1** - The Legislature also finds that such local land-use conflicts are most effectively resolved in a local governmental forum where citizens can most easily participate in the decision making process and the land-use planning values of local communities most effectively identified and incorporated into a comprehensive policy which reflects the values and goals of those communities.

Therefore, it is the purpose of the Legislature to enable local citizens to resolve the land-use conflicts which may be created by proposed commercial solid waste facilities through the existing forum of county or regional solid waste authorities.

# Commercial Solid Waste Facility Siting Plans

**WV Code §22C-4-24** - On or before the first day of July, one thousand nine hundred ninety-one, each county or regional solid waste authority shall prepare and complete a commercial solid waste facilities siting plan for the county or counties within its jurisdiction:

- (a) The siting plan shall identify zones within each county where siting of the following facilities is authorized or prohibited.

# Commercial Solid Waste Facility Siting Plans

## **Facilities to be considered in each approved plan include:**

- Class A Landfill (maximum monthly tonnage, 30,000);
- Class B Landfill (maximum monthly tonnage, (9,999));
- Class C Landfill (maximum daily tonnage, 100);
- Class D Landfills (construction and demolition only);
- Solid Waste Transfer Stations;
- Recycling Facilities;
- Energy Recovery Facilities/Incinerators;
- Materials Recovery Facilities; and
- Commercial Composting Facilities.

# Commercial Solid Waste Facility Siting Plans

## Planning Criteria for Zones

- Efficient disposal of solid waste generated within the county or region;
- Economic development;
- Transportation infrastructure;
- Property values;
- Groundwater and surface waters;
  - Significant adverse impact on wetlands.
  - Significant adverse impact on surface water;
  - Significant adverse impact on ground water quality;
  - Violations of surface water quality;
  - Perennial streams;
  - 100 year flood plains;
  - Public and private water supply wells.

# Commercial Solid Waste Facility Siting Plans

## Planning Criteria for Zones (continued)

- Geological and hydrological conditions.
  - Known faults,
  - Other extreme geological conditions,
    - Karst regions.
    - Solution cavities.
    - Extensive sandstone aquifers.
    - Shales.
    - Consolidated formations.
    - Aquitards.
    - Mining.
      - Oil, Gas, Minerals, Sand, Gravel and Limestone



# Commercial Solid Waste Facility Siting Plans

## **Planning Criteria for Zones (continued)**

- Aesthetic and environmental quality;
- Present and potential land uses for residential; commercial, recreational, environmental conservation or industrial purposes;
- Historic and cultural resources;
- Public health, welfare and convenience.

# Commercial Solid Waste Facility Siting Plans

## Important Points

- The authority must examine each facility type, in relation to each of the nine criteria listed in 54CSR4-5.3. and designate the various areas of their county or region as one of the following:
  - **Authorized;**
  - **Tentatively Prohibited; or**
  - **Prohibited.**

# Commercial Solid Waste Facility Siting Plans

## Important Points

- The zones shall be established based upon readily available information;
- An authority shall “authorize” or “prohibit” solid waste facilities in a given zone only when the readily available information clearly establishes the facility should be authorized or prohibited in that zone;
- Otherwise, the authority shall “tentatively prohibit” facilities in the zone;
- A decision to **authorize** solid waste facilities in a particular zone shall be made only after consideration of all the criteria listed in 54CSR4-5.3; or
- An authority may base its decision to **prohibit** solid waste facilities in a particular zone upon one or more of the criteria listed in 54CSR4-5.3.

# Commercial Solid Waste Facility Siting Plans



## Authorized

- Facility can be constructed without further SWA approval.
- Facilities subject to PSC and DEP approval.
- Exception: Class A Landfill.

## Tentatively Prohibited

- No facility may be constructed until SWA evaluation is complete and site is designated as “Authorized.”
- SWA will issue “Findings of Fact” and amend siting plan.

## Prohibited

- No facility may be built in areas designated by the SWA as “Prohibited.”

# Commercial Solid Waste Facility Siting Plans

## Class B Landfill

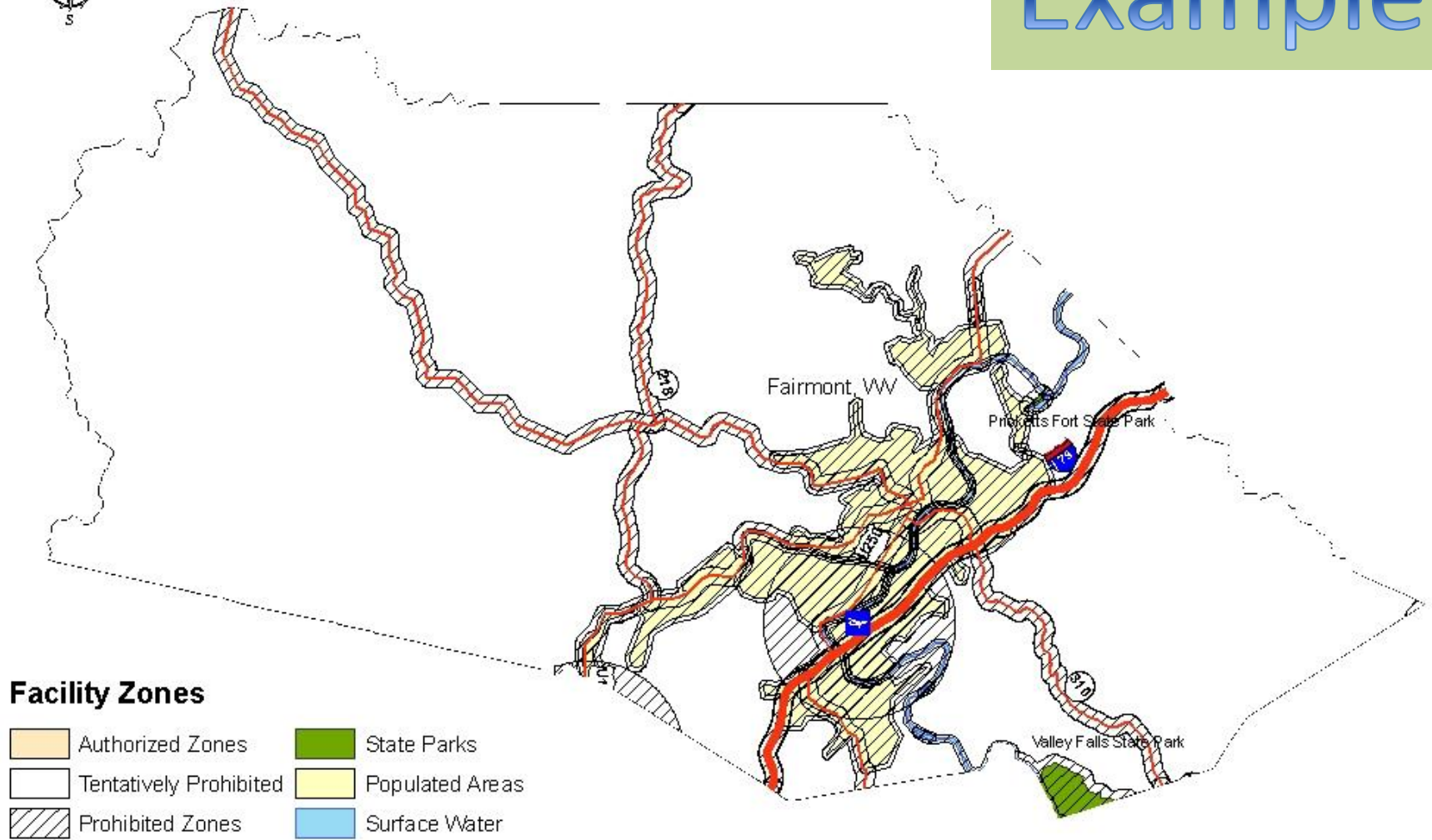
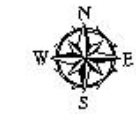
# Example

**Authorized: None.**

**Prohibited:** The areas that are prohibited are denoted on Figure No. I. These areas are prohibited because of one or more of the criteria established in Title 54 Legislative Rule, Series 4, including: (1) perennial streams, (2) 100-year floodplains, (3) other surface waters, including areas within three hundred (300) feet of the water, (4) property within one thousand (1000) feet of the right-of-way of any state trunk highway, interstate or federal aid primary highway, (5) water supply wells and springs, including areas within twelve hundred (1200) feet of wells and springs, and (6) public parks and recreation areas. Although presently unmapped, any area identified as follows shall also be zoned as prohibited: (1) wetlands, and areas within three hundred (300) feet of wetlands, and (2) airports, including areas within six (6) miles.

**Tentatively Prohibited:** All other areas are tentatively prohibited until it can be determined whether the area is suitable or unsuitable on a site specific basis.

# Example



## Facility Zones

- |   |   |
|---|---|
|  Authorized Zones       |  State Parks     |
|  Tentatively Prohibited |  Populated Areas |
|  Prohibited Zones       |  Surface Water   |

Under certain circumstances, Title 40, Code of Federal Regulation, Part 258, Municipal Solid Waste Landfill Criteria, may require a 6 mile buffer zone around airports. This is highly situational. The airport on this map is buffered to 10,000 feet, as is consistent with W.V. Code Rule 54CSR4.



# Issuing Certificate of Siting Approval

## **Each Solid Waste Authority Should Consider the Following:**

- The SWA should adopt comprehensive siting regulations;
- Along with regulations, the authority should develop a siting application;
- Both regulations and the application should be based on the nine criteria in W.Va. Code Rule § 54CSR4-5.3;
- A generic application can be found in Appendix E, SWA Administrative Guide.

# Issuing Certificate of Siting Approval

**The SWA should adopt regulation for issuing a Certificate of Siting Approval. Five things are common to most siting rules:**

- Require a public hearing on the proposed application;
- Require the applicant to make the site available for review by the SWA;
- Require the applicant to be responsible for all cost incurred as a result of the public hearing;
- The SWA should clearly state where the public can review the stated application;
- Require the applicant to provide the SWA with a copy of their Certificate of Convenience and Necessity.



# Issuing Certificate of Siting Approval

## W.Va. Code Rule 54CSR4-6, Review and Amendment Process

- 6.4. Upon application from any person or group, the authority may amend the siting plan redesignating a zone or any portion of a zone.
- 6.4.a. In such case, the person seeking the change has the burden to affirmatively and clearly demonstrate, based on all of the criteria set forth in subsection 5.3 of this rule, that the requested redesignation is appropriate and proper, and that any solid waste facility sited at such location could be appropriately operated in the public interest.
- 6.4.b. In order to make such demonstration, the person seeking the change shall make whatever examination is necessary and submit specific detailed information to the authority relating to the criteria in subsection 5.3 of this rule.

# Issuing Certificate of Siting Approval

## Issuing a Certificate of Siting Approval

- Upon making a decision to approve or not approve, the SWA issues a Findings of Fact;
- The Commercial Solid Waste Facility Siting plan must then be amended to reflect any changes required by the SWA siting decision;
- The applicant then has 30 days to request a judicial review from the Circuit Court of Kanawha County;
- Although the SWA is not required to have legal council, the process of issuing or denying a Certificate of Siting Approval is complex. If legal council is not present, the SWA should be well versed in proper administrative procedures.

# Public Participation Process

## Comprehensive and Siting Plans

- The Comprehensive Plan must have two (2) hearings and comment periods;
- The Siting Plan requires only one (1);
- Plans must be placed in the offices:
  - County Clerk's office;
  - Each of the county's or region's public libraries and branches;
  - Regional Development & Planning Authority's office;
  - The SWA office (if you have one;)

# Public Participation Process

## Comprehensive and Siting Plans (continued)

- The authority must publish notice of each hearing in a Class I legal advertisement published in a qualified newspaper as defined by W. Va. Code §§ 59-3-1 and 2, serving the county or region the authority is responsibility for;

## First and second hearing

- The public hearing must be a min of **30 days** from publication date;
- After the hearing date, the public comment period must remain open a min of **10 days** to accept written comments.

# Public Participation Process

Sample Class I legal advertisement:

## NOTICE OF PUBLIC HEARING

The (authority) County Solid Waste Authority will hold a public hearing concerning the five-year update of the (Plan) County Solid Waste Authority's Comprehensive Litter and Solid Waste Control Plan. The hearing will take place at (location), on (day), (month), (year) at (time) during which time public comments will be heard. This plan may be reviewed at the (county library – location), (county clerk's office), and the (regional planning & development office). Written comments will be accepted until (date-10 days from hearing) and may be sent to (Authority or Chairman/Director), at (mailing address).

# Public Participation Process

## Comprehensive and Siting Plans

- No quorum is needed for the public hearing. One person can conduct the hearing. Hearing must be recorded (tape recorder) and minutes must be typed from meeting. SWMB suggests that the meeting be at least 30 minutes, unless public participation would constitute it to last longer

# Public Participation Process

## Submitting the finished plan to the SWMB for approval:

- The following items must be included in the plan;
  - A clean copy of the updated plan;
  - Affidavit of publication for the first ad;
  - Copy of the first ad;
  - Minutes from the first public hearing
  - Copies of any public comments received and the written response to each;
  - Affidavit of second ad;
  - Copy of the second ad;
  - Minutes from the second public hearing
  - Copies of any public comments received and the written response to each;
  - Minutes from the SWA board meeting where the new plan was approved, must be signed by the chair;
  - Electronic copy of plan, either by email or on disk.

# Public Participation Process

## After final approval of the plan:

- Once your plan has been approved by the Solid Waste Management Board, an approval letter will be sent stating that the plan was approved and the date of the Board's meeting;
- Six (6) copies of this letter shall be included with six (6) copies of your final plan (clean copy – excluding underlines & strikethroughs) and sent to:
  - Four (4) copies to the Solid Waste Management Board;
  - One (1) copy to the Regional Planning and Development Council (for your district);
  - One (1) copy to the County Planning Commission and to the office of the County Clerk;
  - Send one electronic copy to the SWMB either by email or disk.



# Questions?

The Recycling, Market Development and Planning (RMDP) Section is charged with assisting local solid waste authorities with the updates of both, Comprehensive Litter and Solid Waste Control Plan and the Commercial Solid Waste Facility Siting Plan.

Should your Board have any questions, or need any assistance on working through the update process, please do not hesitate to contact a member of the RMDP section.

**304-926-0448**