

## **EXHIBIT A**

### **HAMILTON COUNTY SOLID WASTE MANAGEMENT DISTRICT REVISED RULES PROHIBITING THE ESTABLISHMENT, ENLARGEMENT, OR MODIFICATION OF SOLID WASTE TRANSFER, DISPOSAL, AND COMPOST FACILITIES PRIOR TO OBTAINING DISTRICT APPROVAL OF GENERAL PLANS AND SPECIFICATIONS**

#### **I. Authority**

These Rules have been authorized by the Hamilton County Solid Waste Management Plan, and are adopted, published and enforced pursuant to the authority provided in Ohio Revised Code Sections 343.01(G)(2) and 3734.53(C)(2).

#### **II. Applicability**

These Rules shall be applicable to all existing or proposed Solid Waste Facilities located within the District that Transfer, Dispose, or Compost Solid Waste, except legitimate recycling facilities, or other Solid Waste Facilities that are otherwise excluded by Ohio law.

#### **III. Definitions**

"Applicant" means any person who has submitted an Improvement Plan for the Establishment, Enlargement, or Modification of, any Solid Waste Transfer, Disposal, or Compost Facility to the Board for its approval pursuant to these Rules.

"Board" or "Board of County Commissioners" means the Board of County Commissioners of the Hamilton County Solid Waste Management District.

"Director" means the director of the Hamilton County Environmental Services.

"Disposal" shall have the meaning set forth in Ohio Revised Code Section 3734.01(F).

"District" means the Hamilton County Solid Waste Management District.

"Enlargement" or "Enlarge" means an increase in the area of waste placement beyond the limits approved in the permit, or other authorization, issued for a Solid Waste Transfer, Disposal, or Compost Facility by the OEPA.

"Establish" or "Establishment" of a Solid Waste Transfer, Disposal, or Compost Facility means to construct or install any of the proposed facility components, including the excavation that is related to the construction of a facility or any components thereof. "Establish" or "Establishment" does not include clearing and grubbing.

"Improvement Plan" means the plan required to be submitted under these Rules by an Applicant seeking to construct, Enlarge or Modify any Solid Waste Transfer, Disposal, or Compost Facility within the District.

"Incineration" means the use of controlled combustion to thermally break down Solid Waste.

"Incinerator" means any equipment, machine, device, article, contrivance, structure, or part of a structure, used to burn Solid Waste.

"Sanitary Landfill Facility" or "Solid Waste Landfill" means an engineered facility where the final disposition of Solid Waste is practiced in accordance with federal and state law, including areas of Solid Waste placement, all ground water monitoring/ control system structures, buildings, explosive gas monitoring/ control/ extraction system structures, surface water run-on and runoff control structures, sedimentation pond(s), liner systems, and Leachate management system structures. The Sanitary Landfill Facility includes all portions of the facility described above and those areas within three hundred feet of the limits of waste placement unless an alternate setback is deemed acceptable by the director of Ohio EPA. If the owner or operator has not obtained approval of a permit to install, which delineates the setback from the limits of waste placement, submitted in accordance with section 3734.05 of the Revised Code, the Sanitary Landfill Facility includes all portions of the facility described above and those areas within three hundred feet of the limits of waste placement unless the property line of the facility is less than three hundred feet from the limits of waste placement, in which case the Sanitary Landfill Facility includes those areas within the property line.

"Leachate" means liquid that has come into contact with or been released from Solid Waste.

"Modification" or "Modify" means:

(1) A Sanitary Landfill Facility undergoing any of the following:

(a) A change in the authorized maximum daily waste receipt established for the facility.

(b) A substantial horizontal or vertical increase in the limits of waste placement as specified in division (A)(2)(d) of section 3734.05 of the Revised Code.

[Comment: A reduction to the limits of waste placement or total capacity by itself is generally not considered to be a modification, unless the reduction also results in other substantial changes to the facility such that paragraph (C)(1)(c) of OAC Rule 3745-27-02 is applicable.]

(c) Any change, including but not limited to a change to the operation, technique of waste receipt, type of waste received or design or construction of the facility, determined by the director of Ohio EPA to endanger human health safety or the environment.

(2) A Solid Waste Transfer or Compost Facility undergoing an increase in permitted capacity or waste handling area.

"OEPA" or "Ohio EPA" means the Ohio Environmental Protection Agency.

"Person" shall have the meaning set forth in Ohio Revised Code Section 3734.01(G).

"Plan" means the Solid Waste Management Plan of the Hamilton County Solid Waste Management District.

"Policy Committee" means the solid waste management Policy Committee of the Hamilton County Solid Waste Management District.

"Recycling" Shall have the meaning set forth in Ohio Administrative Code 3745-27.01(R)(1).

"Recycling Facility" or "Legitimate Recycling Facility" shall have the same meaning as set forth in Ohio Administrative Code 3745-27-01(L)(2). A Recycling Facility does not include a Solid Waste Disposal Facility nor a waste tire disposal facility.

"Resource Recovery Facility" means a facility that extracts, removes or reclaims valuable materials and/or energy from Solid Wastes or any combination of structures, machinery or devices utilized to separate, process, modify, convert, treat, or prepare collected component materials or substances or recoverable resources may be recovered or used as a new material or energy sources.

"Rules" means the Rules that have been adopted, published and are to be enforced pursuant to the authority provided in Ohio Revised Code Sections 343.01(G)(2) and 3734.53(C)(2).

"Solid Waste" or "Solid Wastes" shall have the meaning as set forth in Ohio Revised Code Section 3734.01 (E).

"Solid Waste Compost Facility" shall mean Class I and Class II solid waste composting facilities set forth in Ohio Administrative Code 3745-560-02(C).

"Solid Waste Disposal Facility" means any site, location or tract of land, installation or building used for incineration, sanitary landfilling, or other methods of disposal of Solid Wastes.

"Solid Waste Transfer Facility" shall have the meaning set forth in Ohio Revised Code Section 3734.01(U).

"Surface Water" or "Surface Waters" means any water on the surface of the earth.

"TAC" or "Technical Advisory Council" means the Technical Advisory Council of the Hamilton County Solid Waste Management District as it may from time to time be established and appointed by the Policy Committee pursuant to Ohio Revised Code Section 3734.54(F).

"Yard Waste" means solid waste that includes only leaves, grass clippings, brush, garden waste, tree trunks, holiday trees, tree trimmings and/or pruning.

#### **IV. Submission of Improvement Plan**

- A. No Person shall Establish, Enlarge, or Modify, any Solid Waste Transfer, Disposal, or Compost Facility within the District until an Improvement Plan setting forth the general plans and specifications for the proposed project have been submitted to and approved by the Board as complying with the Plan in accordance with these Rules.
- B. Each Person proposing to Establish a Solid Waste Transfer, Disposal, or Compost Facility

or proposing to Enlarge or Modify an existing Solid Waste Transfer, Disposal Facility, shall submit the original, a copy and an electronic copy of the Improvement Plan for the proposed project. The Improvement Plan shall set forth general plans and specifications for the proposed construction, enlargement or modification of a Solid Waste Transfer, Disposal, or Compost Facility, and shall include a complete copy of the PTI application for such construction enlargement or modification filed with Ohio EPA, and to the extent not included therein, the following documents and information:

1. **Type of Solid Waste Disposal Facility:** A description of the type of Solid Waste Disposal Facility proposed to be Established, Enlarged, or Modified, including the materials to be accepted at the Solid Waste Facility (e.g., asbestos, construction and demolition debris, automobile shredder residue, exempt waste (specify type), industrial solid waste; municipal solid waste, residual solid waste, source separated recyclables).
2. **Site Plan Map:** A site plan showing the placement, height, and size of all natural and man-made features and buildings to be constructed or modified as part of the Solid Waste Transfer, Disposal, or Compost Facility.
3. **Drawings:** Renderings of the proposed Solid Waste Transfer, Disposal, or Compost Facility with sufficient detail to depict the appearance upon completion of Establishment, Enlargement, or Modification and, in the case of a landfill, surface contours (gradients) both at the start of operation and upon final closure.
4. **Survey:** A survey by a registered surveyor showing: the location of the principal Solid Waste Disposal Facility; all proposed Solid Waste management units and supporting or ancillary buildings or structures; the distance from each such unit or improvement to the property lines of the site; and a contour map of the site including existing elevations of the Solid Waste Disposal Facility and the approximate final grade and elevations to be established following completion of the disposal areas, if disposal is the proposed use, and the grade and elevation of any proposed buildings or structures to be constructed at the Solid Waste Facility.
5. **Size and Capacity:** The projected size (daily and annual volumes, Authorized Maximum Daily Waste Receipts or processing capacity) of the proposed Solid Waste Disposal Facility including, in the case of a landfill, the proposed phases for development (construction) of disposal capacity and the corresponding acreage for each such phase.
6. **Existing Programs:** The proposed project's relationship to existing or proposed solid waste management programs or facilities that have been or will be developed by or on behalf of the District, and pursuant to which solid waste generated within the District will be managed in accordance with the Plan and the funding thereof; the proposed project's relationship to existing or proposed source separation and recycling activities within the District; and the proposed project's relationship to existing or proposed regional initiatives for the management of solid waste.

7. Hours of Operation: Identification of the proposed Solid Waste Facility's hours of operation including the projected date for commencement of operation.
8. Anticipated Source of Solid Waste and Recyclable Materials: (a) identification of the types of commercial, industrial, agricultural, residential and institutional generators of Solid Waste and other waste materials that are expected to use the Solid Waste Facility and an estimate of the ratio of in-District-generated Solid Waste to the total quantity of Solid Waste that will be disposed, received, treated, stored or processed at the proposed Solid Waste Facility; (b) an estimate of the types and quantity of materials other than Municipal Solid Waste (e.g., construction and demolition debris, contaminated soil, asbestos, automobile shredder residue, and exempt waste) that will be disposed, received, treated, stored, or processed at the proposed Solid Waste Facility; (c) an estimate of the types and quantity of Solid Waste and other materials that will be delivered to the facility by rail; and (d) if recycling activities will be conducted at the proposed Solid Waste Facility, a detailed description of such recycling activity, including all materials to be recycled, technology to be utilized and anticipated percentage of Solid Waste reduction and recyclable materials to be recovered as a result of the operation of the proposed Solid Waste Facility, and the anticipated amount of residual waste that will be generated.
9. Control of On-site Debris: A description of Applicant's proposed management and control procedures to minimize the potential for debris to and from the Solid Waste Facility being deposited on arterial streets and county and township roads.
10. Community Impact: A narrative statement of the Applicant setting forth:
  - a. The Applicant's plans, actions and commitments to mitigate any substantial negative impacts, if any, on the District's residents and businesses in general including, for example, effects on waste management costs/benefits and public revenues/expenditures;
  - b. The Applicant's plans, actions and commitments to mitigate substantial negative impacts, if any, to human health, safety, and the environment, including, for example:
    - i. OAC 3745-27-19(B)(3)-(5)'s requirement that noise, dust, orders, and vermin are controlled so as not to cause a nuisance, health hazard, or water pollution;
    - ii. OAC 3745-28-10(E)(9)'s requirement that reasonable measures be undertaken to collect, properly contain, and dispose of scattered litter;
    - iii. OAC 3745-27-07(H)'s siting criteria with respect to national parks, national recreation areas, state parks, ground water, natural areas, domiciles, and surface water;
  - c. The Applicant's compliance with applicable local zoning ordinances

including, for example, ordinances relating to lighting and screening landscaping;

- d. The Applicant's compliance with applicable state, federal, and local laws and regulations regarding preservation of, and setback from, historic buildings and landmarks.
  - e. The Applicant's compliance with the Hamilton County Thoroughfare Plan and directives (if any) of the Hamilton County Engineer as to traffic, roadways and curb-cuts.
11. Other Relevant Information: Any other information the Applicant considers reasonably necessary for the Board to evaluate the Improvement Plan.
- C. Notwithstanding anything to the contrary contained in these Rules or the Plan, in the event that a temporary emergency increase in maximum permitted daily waste receipts is issued by order of the director of Ohio EPA in response to a natural disaster, extreme weather event or other *force majeure* event, the owner or Applicant shall not be required to submit an Improvement Plan or obtain approval of the Board for the duration of such temporary order, but shall promptly submit to the District copies of any such order, the application or request for the issuance of such order or the extension, amendment or termination thereof, and all correspondence with Ohio EPA in relation to any of the foregoing.

**V. Improvement Plan Review**

- A. Upon receipt of the Improvement Plan, the Board shall promptly:
- 1. Distribute a copy electronically to the Director of Hamilton County Environmental Services and the Coordinator/Manager and Assistant Manager of the District. With the advice and assistance of the TAC (if then established) and District staff, to the extent requested, the Director shall review the proposed project.
  - 2. Prepare and publish a public notice which describes the proposed project or modified proposed project, specifies the location where the Improvement Plan is available for review, and establish a period of thirty (30) days for submission of written public comments concerning the proposed project or modified proposed project.
  - 3. Provide a copy of the public notice described in Section V(A)(2) of these Rules to the legislative authority of the municipal corporation or township in which the facility or proposed facility is located.
- B. The Director may, at his/her discretion, present the proposed project to the Policy Committee at a specially convened meeting of the Policy Committee within ten (10) days upon receipt of the Improvement Plan. The Policy Committee may provide a non-binding written recommendation for the Director's consideration within thirty (30) days of the presentation of the project.
- C. The District shall provide copies of all written public comments and the non-binding recommendation of the Policy Committee to the Applicant who shall then have 30 days to

provide the District with Applicant's written responses (if any) to such comments. The Applicant may also make responsive or non-substantial revisions to the proposed project in response to the written public comments and the Policy Committee's non-binding recommendation. Upon receipt of the Applicant's written responses or non-substantial revisions, the Director shall have ninety (90) days to provide to the Applicant and the Board the Director's Report and Recommendation as to whether the proposed project should be approved as complying with the Plan. The Director's determination shall be in writing and shall include an explanation of the basis for the determination.

- D. In connection with, or in lieu of providing written response to public comments as set forth above, the Applicant shall have the right to notify the Board in writing of its decision to substantially amend its proposed project. If the Applicant notifies the Board of its intent to substantially amend the proposed project, the Board shall retain all materials pertaining to the original proposed project pending modification for up to thirty (30) days. The Applicant shall then submit to the Board a revised Improvement Plan setting forth the substantial amendments of the proposed project, together with a summary describing the substantial amendments made to the proposed project.
- E. Upon receipt of a substantially amended proposed project, the Director may, at his/her discretion, restart the Improvement Plan Review process, as set out in Section V(A) of these Rules, or the Director may begin his/her review of the project. The Director will notify the Applicant of his/her decision within ten (10) days of receipt of the substantially amended proposed project. If the Director decides to begin his/her review, he shall have ninety (90) days from the date that he notifies the Applicant to complete and provide the Applicant and the Board with his/her Report and Recommendation.
- F. If the Board has not received Applicant's responses to the comments, and/or notice of Applicant's election to substantially amend the proposed project, or if Applicant does notify the Board that it plans to substantially amend the proposed project but fails to do so within thirty (30) days thereafter, the Director shall have (90) days to provide to the Applicant and the Board the Director's Report and Recommendation.
- G. Upon receiving the Director's Report and Recommendation, the proposed project shall be placed on the published agenda for a public hearing at the next regular meeting of the Board. The Director, or his/her designee, shall present:
  - 1. A summary of the Improvement Plan;
  - 2. A listing or summary of the comments received from residents and businesses within the District regarding the Improvement Plan;
  - 3. A summary of the Applicant's response(s) or amendment(s) to the Improvement Plan in response to such comments;
  - 4. The Director's non-binding Report and Recommendation and basis therefore;
- H. The Applicant will then be allowed to address the Board in response to the presentation of

the Director.

**VI. Approval of the Improvement Plan**

- A. The proposed Improvement Plan shall be presented for a vote without delay following the public hearing provided for in Section V(G) of these Rules. The Board shall approve or reject the Improvement Plan by majority vote. In the event of a tie, the applicant shall have the opportunity to amend or revise the Improvement Plan for the Board's reconsideration or the Improvement Plan shall be again placed on the agenda for the next regular public meeting of the Board at which time it will be again held up for vote.
- B. The Board shall give due consideration to the written comments submitted by residents and businesses within the District, the response(s) and amendment(s) to the plan by Applicant in response thereto, the non-binding determination by the Director and the presentations of the Director and Applicant to the Board, and (if requested) the advice of legal counsel to the Board.
- C. The Board shall approve the Improvement Plan if it determines by a preponderance that the proposed project does not compete with or inhibit the financing, use or operation of proposed or existing solid waste management programs or facilities developed by or on behalf of the District; that the proposed project reasonably avoids or mitigates adverse impacts on the environment, health, and safety of the District and its residents in compliance with the Plan, applicable laws and regulations including, but not limited to Ohio Revised Code Sections 343.01(G)(2) and 3734.53(C)(2), based upon the evidence presented, including but not limited to the information presented in the Improvement Plan's Community Impact Statement as provided in Section IV(B)(10) of these Rules;.
- D. Actions by the Board pursuant to these Rules shall be subject to appeal to the Hamilton County Court of Common Pleas within thirty (30) days of the Board's determination under Section VI(C). Further record development may occur at the Hamilton County Court of Common Pleas. The Hamilton County Court of Common Pleas may affirm, reverse, vacate, or modify the Board's actions consistent with the findings or opinion of the court. The judgment of the Hamilton County Court of Common Pleas may be appealed by any party as provided in the Rules of Appellate Procedure.

**VII. Submission of OEPA Materials to the Director**

- A. In addition to the other requirements of these Rules, any Person who obtains from OEPA a permit to install a Solid Waste Disposal, Recycling or Resource Recovery Facility in the District shall provide to the Director a copy of all plans, specifications, and other materials submitted to the OEPA as part of the permit to install application process or any Enlargement of Modification thereof.

**VIII. Notice of Intent to Close Required**

- A. No less than 180 days prior to the anticipated date on which the owner of a Solid Waste



Disposal, Recycling or Resource Recovery Facility intends to cease accepting waste at that facility, the facility owner, or an authorized representative, shall provide to the Board, by certified mail, notice of the anticipated date on which the Solid Waste Disposal, Recycling or Resource Recovery Facility will cease accepting Solid Waste.

**IX. Other Laws, Regulations, or Orders**

- A. Nothing herein shall be construed so as to require an Applicant or owner of a Solid Waste Facility to take any action, or to prevent such Applicant or owner from taking any such action necessary and appropriate to comply with, and remain in compliance with, any applicable provision of the Ohio Revised Code, Ohio Administrative Code, Order of the director of Ohio EPA, or any court of competent jurisdiction.

**X. Penalties, Prosecution**

- A. Whoever violates any provision of these Rules shall be fined not more than five thousand dollars (\$5,000) for each offense. Each separate day of each violation is a separate offense.
- B. The prosecuting attorney of Hamilton County is hereby authorized, upon the request of the Board, to prosecute the termination or bring a civil action for appropriate relief against any person that has violated, is violating, or is threatening to violate any of these Rules. This shall include an action in the Court of Common Pleas seeking a temporary restraining order or a temporary or permanent injunction, upon a showing that the person against whom the action is brought has violated, is violating, or is threatening to violate any of these Rules.
- C. All fines imposed under this section shall be deposited in the District's special fund maintained pursuant to ORC section 3734.57.

**XI. Severability**

- A. The provisions of these Rules shall be severable, and if any section, clause or portion thereof, or the applicability thereof to any person or circumstance be invalidated, the remainder of these Rules shall not be affected. If any provision of these Rules is ruled invalid by any court of competent jurisdiction, such decision shall not affect the validity of any other provision hereof. Additionally, in the event any provision hereof is determined to be a facility design standard within the meaning of ORC § 343.01(G)(2) or is determined to be inconsistent with the solid waste provisions of Chapter 3734 of the Revised Code and the rules adopted under those provisions, then such provision shall not be considered in the Board's review of any proposed Solid Waste Facility under these Rules.

**XII. Amendments to Rules**

- A. If at any point, the Board decides to make any substantive amendments to the Rules, the Board shall appoint a Rules Advisory Committee to draft the proposed Rule Amendment and provide the Rule Amendment to the Board for its review and approval. This Rules Advisory Committee shall

serve at the pleasure and direction of the Board of County Commissioners. The Rules Advisory Committee may convene as frequently as deemed necessary by the Board.

- B. Each member of the Rules Advisory Committee shall be appointed by the Board of County Commissioners. The Rules Advisory Committee shall consist of as many members as the Board considers appropriate, however, the Rules Advisory Committee must consist of at least three members including: (1) a representative of the Hamilton County Department of Solid Waste; (2) an owner or operator, as defined below; and (3) a member of the public who resides within the District and who represents the general interests of citizens who shall have no conflict of interest through affiliation with a waste management company or with any entity that is a significant generator of solid wastes. An owner or operator as used in this section is defined as a representative of an owner or operator within the District of: (A) a Sanitary Landfill Facility, as defined in OAC § 3745-27-01(S)(4), if the amendment(s) relate primarily to a Sanitary Landfill Facility or are general or procedural in nature; (B) a Solid Waste Transfer Facility, as defined in OAC § 3745-27-01(S)(27), if the amendment(s) relate to a Solid Waste Transfer Facility; or (C) a Composting Facility, as defined in OAC § 3745-27-01(C)(3), if the amendment(s) relate to a Composting Facility.
- C. Any rule amendment must be approved by a majority vote of the Rules Advisory Committee in order to be advanced to the Board for its consideration. If the Rules Advisory Committee cannot come to a majority vote on the proposed Rule Amendment, the proposed Rule Amendment will be submitted to the Hamilton County Administrator to determine whether or not to advance the proposed Rule Amendment to the Board.
- D. Upon receiving the proposed Rule Amendment, the Board shall place the proposed Rule Amendment on the published agenda for discussion at a regular meeting of the Board. The Board may, in its discretion, hold a public hearing, to solicit comments from the public regarding the proposed Rule Amendment. Any Rule Amendment must be approved by a majority vote of the Board. If approved, the Rule Amendment will become effective immediately, and the Plan will be updated as soon as practical to reflect the Rule Amendment.

### **XIII. Effective Date**

- A. These Rules shall be effective immediately.