

CHAPTER 55: HAZARDOUS WASTE

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GENERAL PROVISIONS

§ 55.01 TITLE.

This chapter shall be known and may be cited as the Town of Liberty Hazardous Waste Ordinance.

(Ord. passed 5-24-1982)

§ 55.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HAZARDOUS WASTE. Any waste material including radioactive material which is now or may be listed as a hazardous waste pursuant to the United States Environmental Protection Agency's Hazardous Waste Guidelines and Regulations as published in the Federal Register (40 C.F.R., Part 261, May 19, 1980), or any amendments thereto and any other waste or radioactive materials which shall be listed from time to time by the United States Environmental Protection Agency as hazardous waste.

PERSON. Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group or agency.

PLANNING BOARD. The Town of Liberty Planning Board.

TO STORE. To hold, deposit or accumulate either in a warehouse, vehicle, building or pit, on a lot or in containers for a continuous period of time exceeding 24 hours.

(Ord. passed 5-24-1982)

REGULATIONS OF HAZARDOUS WASTE

§ 55.10 PURPOSE.

To define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of the citizens of Liberty and to protect the persons and property in the jurisdiction of the Town of Liberty from the harmful effects of hazardous waste material.

(Ord. passed 5-24-1982)

§ 55.11 PROHIBITION OF USES.

The use of land or building structures for storage, disposal, accumulation, repackaging, incineration, burial or reprocessing of any hazardous waste material by any person within the jurisdiction of the Town of Liberty is prohibited except where said waste materials are produced within the Town of Liberty incidental to the uses permitted by the Zoning Ordinance of the

Town of Liberty. In no case shall any hazardous waste material be disposed of or buried within the jurisdiction of the Town of Liberty.

(Ord. passed 5-24-1982) Penalty, see § 55.99

§ 55.12 EXCEPTIONS.

This subchapter does not apply to the lawful use by properly licensed operators of radiation machines or radioactive materials for medical diagnostic and treatment purposes and this subchapter does not apply to the use of radiation machines or radioactive materials by properly licensed and qualified operators in the testing laboratories, electronics communications, word processing, data processing, inspection, quality control or other legitimate manufacturing processes.

(Ord. passed 5-24-1982)

MANAGEMENT OF HAZARDOUS WASTE

§ 55.20 PURPOSE.

This subchapter establishes a process by which hazardous waste facilities may be allowed within the jurisdiction of the Town of Liberty where these facilities would not otherwise be acceptable. By means of conditions exercised through a special use permit procedure, hazardous waste facilities will be subject to high standards of planning and design in order to minimize any dangerous conditions which could exist and to protect the persons and property in Liberty's jurisdiction from the harmful effects of hazardous waste material.

(Ord. passed 5-24-1982)

§ 55.21 SPECIAL USE PERMIT REQUIRED.

The use of land, building structures or vehicles for the storage, collection, repackaging, reprocessing, transferring or transporting of any hazardous waste material by any person in the Town of Liberty shall not be permitted as a matter of right but only after review and approval as hereinafter provided. A special use permit to operate said uses is required and may be granted by the Town Council of the Town of Liberty subject to the conditions set forth in this subchapter. In no case shall any person, including those listed in § 55.22, dispose of or bury any hazardous waste material in the Town of Liberty.

(Ord. passed 5-24-1982) Penalty, see § 55.99

§ 55.22 EXCEPTIONS.

(A) This subchapter does not apply to hazardous waste materials which are produced within the Town of Liberty incidental to the uses permitted by the Town of Liberty Zoning Ordinance.

(B) This subchapter does not apply to the lawful use by properly licensed operators of radiation machines or radioactive materials for medical diagnostic and treatment purposes and this subchapter does not apply to the use of radiation machines or radioactive materials by properly licensed and qualified operators in the testing laboratories, electronics communication, work processing, data processing, inspection, quality control or other legitimate manufacturing processes.

(Ord. passed 5-24-1982)

§ 55.23 CONDITIONS FOR A SPECIAL USE PERMIT.

(A) *Recordkeeping.* The owner or operator of the hazardous waste facilities shall keep adequate records or manifests such that the type and amount of waste materials on site or in transport within the jurisdiction of the Town of Liberty can be determined at all times. These records or manifests shall be available for inspection, upon request, by any official or representative of the town so designated by the Town Council of the Town of Liberty.

(B) *Protection from waste discharge.* Adequate safeguards shall be provided to ensure that no discharge of waste materials harmful to human health or the environment will occur. These safeguards shall include at least the following:

(1) All storage containers, storage yards, loading facilities, building or structures containing hazardous waste materials shall be located no closer than 100 feet from any exterior property line.

(2) Facilities, including transporting vehicles, must be designed, constructed, maintained, and operated to minimize the possibility of a fire or explosion, or any unplanned sudden or non-sudden release of hazardous waste materials to air, soil, or surface water which could threaten human health or the environment.

(3) Prior to any storage of hazardous waste material, dikes or other structures shall be constructed such that all surface spills or discharges of hazardous waste material will be contained on site.

(4) The owner or operator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of the facility.

(5) The petitioner shall agree that contingency plans will be developed upon receipt of special use permit and submitted to the Town of Liberty before operation of the facility begins. These plans must describe the actions to be taken by local officials and emergency and safety departments in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste materials to air, soil, or surface water at the facility or while the hazardous waste materials are

in transport within the jurisdiction of the Town of Liberty.

(C) *Odors and particulates.* No obnoxious odors or particulate matter from the hazardous waste facilities shall be discernible on adjoining properties.

(D) *Off-site transport.* As a prerequisite to the approval of a special use permit, the Town Council of the Town of Liberty shall find that the use of the proposed facility will not endanger the safety of residential or other properties in the area, and that vehicular access to the storage or transferring facility will be provided from major thoroughfares and will not require the use of residential streets for access to the site.

(E) *Inspection.* The owner or operator of the hazardous waste facility shall allow authorized officials or representatives of the Town of Liberty access to the site and all facilities at any time and without prior notice. The purpose of such inspection shall only be to check for compliance with the provisions of the special use permit.

(F) *Monitoring.* In the event of any assumed or actual accidental discharge of hazardous waste the petitioner shall agree to pay the cost of all monitoring and analyses of air, soil and surface or subsurface water quality as may be deemed necessary by the Town Council to protect human health and the environment. The monitoring may take place on- and/or off-site and shall be conducted by a certified laboratory which has no association with either the Town of Liberty or the petitioner.

(G) *Insurance requirement.* The owners of said hazardous waste facility shall provide evidence that they have adequate liability insurance to cover the cost of all clean-up which may become necessary as the result of any spill or discharge of hazardous wastes either during storage, transferring or transporting within the jurisdiction of the Town of Liberty.

(H) *Required buffers.* Where a hazardous waste facility abuts a lot in a residential district or land occupied by any residential use permitted by this subchapter, there shall be provided and maintained along said property line, a continuous visual buffer. The buffer shall be a compact evergreen hedge or other type of evergreen foliage screening, or shall be a combined fence and shrubbery screen, the latter facing the residential use.

(Ord. passed 5-24-1982) Penalty, see § 55.99

§ 55.24 APPLICATION PROCEDURES.

(A) The owner or owners of all property included in the petition for a special use permit shall submit an application to the Town Manager or his or her designated representative. Such an application shall include the name of the petitioner, date, location of proposed facilities on a vicinity map, and plans and/or specifications for said facilities.

(B) (1) Each application shall require an analysis of the environmental and economic impacts of the facilities proposed in the application. This analysis shall be completed within 120 days after the application for the proposed facilities is submitted and shall be conducted by the town, staff or a consultant selected by the Town Council.

(2) The petitioner shall agree to pay all reasonable costs incurred by the Town of Liberty in processing the application and in completing an analysis of the environmental and economic impacts of the proposed facilities.

(C) Upon receiving the environmental and economic analysis of the proposed facilities, the Town Manager shall give notice of a public hearing on the application.

(D) The Planning Board and the Town Council shall sit jointly at the public hearing at which all interested persons shall be permitted to testify.

(E) The Planning Board shall forward its recommendation to the Town Council within 30 days after the hearing at which the application is heard. Failure to submit a recommendation within this period shall be deemed a favorable recommendation.

(F) On receiving the recommendation of the Planning Board, the Town Council shall consider the application and said recommendation and may grant or deny the special use permit requested. The special use permit, if granted, shall include such approved plans as may be required. In granting the permit the Town Council shall find:

(1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved;

(2) That the use meets all required conditions and specifications of this subchapter and any requirements of the Randolph County Health Department;

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

(4) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Town of Liberty.

(G) In granting the permit, the Planning Board may recommend and the Town Council may designate such conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this subchapter. All such additional conditions shall be entered in the minutes of the meeting at which the permit is granted and also on the certificate of the special use permit or

on the plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applicants for the special use permit, their heirs, successors and assigns.

(H) If the Planning Board recommends the approval or disapproval of the special use permit, and if the Town Council grants or denies the permit, each body shall enter the reasons for its action in the minutes of the meeting at which the action is taken.

(I) Final approval or disapproval of the application will rest with the Town Council of the Town of Liberty.

(J) In the event of failure to comply with the plans approved by the Town Council or with any other conditions imposed upon the special use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or certificates of occupancy under this special use permit shall be issued, and any facilities in operation will be considered in violation of this subchapter.

(Ord. passed 5-24-1982)

§ 55.99 PENALTY.

Any person convicted of violating any provision of this chapter shall be punished by fine or imprisonment as provided by G.S. § 14-4. Every calendar day during which the violation shall continue shall constitute a separate offense.

(Ord. passed 5-24-1982)