

ARTICLE 54 - HAZARDOUS WASTE MANAGEMENT ORDINANCE (HWM)

Section 54.00 - Purpose & Intent

The purpose of this ordinance is to establish permit procedures and local siting criteria to evaluate hazardous waste and PCB treatment and disposal facilities proposed in Hood River County. The primary intent of this ordinance includes the following: (1) To maximize protection of the public's health, safety and welfare; (2) To protect Hood River County's overall environmental quality; (3) To ensure compliance with the Oregon Legislative directives outlined in Senate Bill 138, Hazardous Waste and Hazardous Materials; (4) To ensure collaboration with the Environmental Quality Commission (EQC) and the Department of Environmental Quality (DEQ) in ensuring protection of Hood River County's environmental quality; and (5) To provide local citizen participation.

Section 54.05 - Applicant's Burden of Proof

The burden is upon the applicant to provide affirmative documented findings demonstrating compliance with all provisions of this ordinance.

Section 54.10 - Definitions

- A. **ENVIRONMENTAL QUALITY COMMISSION (EQC):** This five (5) member commission, appointed by the Governor, provides policy direction to the Department of Environmental Quality (DEQ) and oversees its operations. The Director of the DEQ is appointed by the EQC.
- B. **HAZARDOUS WASTE COLLECTION, DISPOSAL OR TREATMENT SITE:**
1. Hazardous waste collection site means the geographical site upon which hazardous waste is stored.
 2. Hazardous waste disposal site means a geographical site in which or upon which hazardous waste is disposed.
 3. Hazardous waste treatment site means the geographical site upon which or facility in which hazardous waste is treated.
- C. **HAZARDOUS WASTE:** Hazardous waste does not include radioactive material or the radioactively contaminated containers and receptacles used in the transportation, storage, use or application of radioactive waste, unless the material, container or receptacle is classified as hazardous waste under paragraphs (1), (2) or (3) of this subsection on some basis other than the radioactivity of the material, container or receptacle. Hazardous waste does include all of the following, which are not declassified by the Environmental Quality Commission under ORS 466.015(3) or other State law:
1. Discarded, useless or unwanted materials or residues resulting from any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling or mitigating of insects, fungi, weeds, rodents or predatory animals, including but not limited to defoliants, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides.

2. Residues resulting from any process of industry, manufacturing, trade or business or government or from the development or recovery of any natural resources, if such residues are classified as hazardous by order or the Environmental Quality Commission after notice and public hearing. For purposes of classification, the Environmental Quality Commission must find that the residue, because of its quantity, concentration or physical, chemical or infectious characteristics may:
 - a. Cause or significantly contribute to an increase in-mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
3. Discarded, useless or unwanted containers and receptacles used in the transportation, storage, use or application of the substances described in paragraphs (1) and (2) of this subsection.

D. NEW FACILITY:

1. A facility for which an original permit application was submitted after the effective date of EQC and DEQ's regulations, regarding siting of Hazardous Waste Management and PCB Treatment and Disposal Facilities; or
2. A facility where a different type of treatment or disposal is being proposed (i.e., adding incineration, a facility-utilizing disposal, or changing from chemical treatment to biological treatment at the facility).

E. PCB: A definition of PCB is provided in Appendix "A" to this ordinance.

F. RADIOACTIVE WASTE: Means any material considered a radioactive waste as defined in Oregon Revised Statutes (ORS) 469.300 or by the Environmental Quality Commission (EQC) or the Department of Environmental Quality (DEQ). However, as defined in this ordinance, hazardous waste excludes radioactive materials. Furthermore, Hood River County Ordinance No. 159, entitled "Nuclear Free Hood River County Ordinance", prohibits the following: (1) Research on or the manufacture of nuclear weapons or components; (2) The transportation, storage, siting or disposal of nuclear weapons, components, or radioactive waste; and (3) Civil defense crisis relocation planning for nuclear war.

Section 54.15 - Applicable Facilities:

A. The following uses are subject to all provisions in this ordinance:

1. New hazardous waste and PCB treatment and disposal facilities located off the site of waste generation (off-site); and
 2. New hazardous waste and PCB land disposal facilities located on the site of waste generation (on-site).
 3. New hazardous waste and PCB treatment and disposal facilities, other than land disposal facilities, located on the site of waste generation (on-site).
- B. Facilities described in A., 1. above that receive less than 50% of waste from off the site may be located inside urban growth boundaries if reviewed and approved by the cities of Hood River or Cascade Locks; and (2) If in compliance with applicable provisions in Section 54.25, Hood River County Compatibility Statement, excluding paragraph C., item 6.
- C. The following facilities are not subject to provisions in Section 54.20 Application Process, but must comply with other requirements of DEQ and applicable provisions in Section 54.25 - Hood River County Land Use Compatibility Statement, as determined by the County Planning Commission and/or the cities of Hood River and Cascade Locks or the County Planning Director.
1. Portable hazardous waste and PCB treatment and disposal facilities that are located on a single site of generation (on-site) less than 15 days each year.¹
 2. Hazardous waste and PCB treatment or disposal sites involved in remedial action or closing.
 3. Facilities treating hazardous waste pursuant to the recycling requirements.
 4. Facilities permitted by the DEQ to manage municipal or industrial solid waste, if the hazardous waste the facilities treat or dispose of is excluded from regulation.
- D. Emergency permits issued by the Director of DEQ are exempt from this ordinance but require coordination and cooperation with the County Emergency Services Committee through cooperation with the County Sheriff or the County Administrator.

Section 54.20 - Application Process

- A. Uses proposed in Section 54.15 - Applicable Facilities, paragraphs A., items 1-3 and shall comply with the following three-step application process:
1. Receive Authorization to Proceed from the Department of Environmental Quality (DEQ);

¹. Portable facilities are usually truck mounted.

2. Application to the County Planning Department and compliance with the Hood River County Land Use Compatibility Statement (Section 54.25 of this ordinance);
 3. Application and approval of a treatment or disposal permit from the Department of Environmental Quality (DEQ) or the Environmental Quality Commission (EQC).
- B. The County will not accept or process an application for a Hood River County Land Use Compatibility Statement unless it is demonstrated through documentation that an Authorization to Proceed request is granted by the Department of Environmental Quality (DEQ). All written information addressing criteria required by the Authorization to Proceed shall be provided to the Hood River County Planning Department and County Planning Commission.
- C. Existing facilities reapplying will be required to demonstrate compliance with the directives of the Environmental Quality Commission (EQC), the Department of Environmental Quality (DEQ) and the Hood River County Land Use Compatibility Statement.

Section 54.25 - Hood River County Land Use Compatibility Statement

- A. Proposed facilities in Sections 54.15 - Applicable Facilities, paragraphs A., items 1-3, and B., shall provide documented evidence of compliance with all provisions in this section.
- B. Proposed facilities in Section 54.15; - Applicable Facilities, paragraph C., must comply with requirements of DEQ and other applicable provisions in this section as determined by the County Planning Commission, cities of Hood River or Cascade Locks, either through a conditional use permit and a public hearing, or administratively processed by the County Planning Director pursuant to provisions in Article 72 –Planning Director's Review Procedure.
- C. Applicants shall provide documented evidence of compliance with the following criteria or factors:
 1. Written documentation demonstrating compliance with criteria and factors that must be met to obtain an Authorization to Proceed request from the Department of Environmental Quality (DEQ).
 2. Applicant to complete a Site Inventory and Resource Analysis of the proposed site and adjacent ownerships, and prepare maps at scale 1"=400' or 1:24,000, or as specified, showing at least the following natural and cultural resources:
 - a. Existing land and proposed land use (scale for proposed land use, 1"=50' or better).
 - b. Easements, deeds, restrictions or covenants affecting subject property.
 - c. Hydrology Features (surface water, drainage basin, ground water, wells, etc.).

- d. Climate (temperature, wind, precipitation, snowfall, other).
 - e. Topography (show elevations, slope, other).
 - f. Physiographic obstructions (geologic hazards, floodplains, other).
 - g. Applicant shall identify through the above maps and narrative, attributes that support the proposed use or constraints that prevent the use.
3. Proposed use shall be located on Industrial (M-1) zoned lands and demonstrate compliance with provisions of this ordinance. All proposals will be processed as a conditional use permit with a public hearing by the Hood River County Planning Commission. Provisions of Article 54 - Hazardous Waste Management and conditions developed as a result of the hearings process, shall constitute zoning requirements if a request is approved by the Hood River County Planning Commission.
 4. The facility shall not prevent the use of adjacent lands for uses permitted or otherwise allowed in the applicable zone.
 5. Facilities listed under Section 54.15 - Applicable Facilities, paragraph B., that receive less than 50% of waste from off-site may be located within an urban growth boundary if reviewed and approved by the cities of Hood River and Cascade Locks.
 6. Facilities proposed in Section 54.15 - Applicable Facilities, paragraph A., items 1-3, shall be sited at least two miles from the urban growth boundaries of Hood River and Cascade Locks.
 7. Hazardous waste and PCB treatment and disposal facilities, other than land disposal facilities, on the site of waste generation shall have at least a 250-foot separation between active waste management areas and facilities, and property boundaries.
 8. Hazardous waste and PCB treatment and disposal facilities off the site of waste generation and land disposal facilities on the site of waste generation shall have at least a 1,000 foot separation between active waste management areas and facilities, and property boundaries.
 9. The facility shall be located at least one mile from the following uses identified in *elements of the Hood River County Comprehensive Plan:²

² Elements of the Hood River County Comprehensive Plan include: County Policy Document, Background Report, Exceptions Document, Zoning & Subdivision Ordinances, and Plan & Zoning Maps.

- a. Schools, churches, hospitals, nursing homes, retail centers, stadiums, auditoriums or residences not owned by the applicant;
 - b. Wilderness, parks and recreation areas;
 - c. Scenic view sites;
 - d. Federal and State scenic waterways;
 - e. Planned Unit Developments (Residential and Commercial);
 - f. Lands zoned Residential, Rural Residential or Rural Center;
 - g. Hood River and Cascade Locks Airports;
 - h. Columbia River Gorge National Scenic Area.
10. The facility shall be located at least one-quarter mile from the following uses identified in elements of the County Comprehensive Land Use Plan:³
- a. Perennial surface water (including rivers, streams, lakes and reservoirs) and wetlands;
 - b. Historic and cultural areas;
 - c. Ecologically and scientifically significant natural areas;
 - d. Municipal watersheds;
 - e. Floodplains;
 - f. Geologic Hazards;
 - g. SCS Agricultural Soil Classification I, II, III or IV or Cubic Foot Site Class 1, 2, and 4 forestlands.
11. Engineering services including medical care, to respond to and address emergencies and accidents at the facility or involving wastes traveling on local transportation routes to the facility have been identified and shall be provided by the applicant. Applicant shall provide evidence that engineering and medical personnel are certified or qualified by an appropriate agency to properly handle hazardous waste materials. The added cost of adequately training, equipping and certifying personnel shall be borne by the

³ Elements of the Hood River County Comprehensive Plan include: County Policy Document, Background Report, Exceptions Document, Zoning & Subdivision Ordinances, and Plan & Zoning Maps.

applicant or state. Neither Hood River County nor the cities of Hood River or Cascade Locks will assume the added cost or responsibility for training or equipping personnel, etc., unless so determined by the Board of County Commissioners or the cities of Hood River or Cascade Locks.

12. The facility shall have more than one public transportation route to its site.
 13. The appropriate city, county, state and federal transportation departments have reviewed the local transportation routes to the facility for safety and their recommendations for improvements shall be implemented prior to first waste receipt at the facility. Unauthorized access to the site will not be provided.
 14. An emergency response team owned by or under contract to the owner or operator or the facility shall be located within 25 miles of the facility. The team shall be capable or immediately responding to spills occurring within 50 miles of the facility, or waste traveling to the facility. The emergency response team shall be certified or qualified by an appropriate agency to properly handle spills. The added costs of adequately training, equipping and certifying the response team shall be borne by the applicant or state. Neither Hood River County or the cities of Hood River or Cascade Locks will assume the added costs or responsibility for training, equipping, etc., the emergency response team, unless so determined by the Board of County Commissioners, or the cities of Hood River or Cascade Locks.
- D. Applicant shall demonstrate through written documentation why any of the above criteria or factors cannot be met. Exceptions will be approved based upon approval by the DEQ, EQC, Hood River County and the cities of Hood River or Cascade Locks. Exceptions will be based upon the following criteria:
1. The applicant demonstrates through documented findings that the public's health, safety and the environment are adequately protected by allowing the exception; or
 2. If the exception provides substantial equivalent protection as compared to the specific criterion, factors or other provisions within this ordinance.

Section 54.30 - Time Frame County Action

- A. Pursuant to timely and complete submittal of information addressing provisions in Article 54 - Hazardous Waste Management Ordinance, the County will act on the request within 180 days.
- B. If the County does not make a decision within 180 days, the applicant may request the Department of Environmental Quality to evaluate and ensure the request complies with the provisions of this ordinance. In determining whether the request is appropriate, DEQ will solicit and consider comments from appropriate local agencies, special districts, cities of Hood River and Cascade Locks, and Hood River County.

- C. If the County does not act within 180 days and the applicant takes no action under 54.30, B. above, the application shall be deemed denied.

Section 54.35 - Local Citizens Advisory Committee

- A. To ensure additional Hood River County citizen participation in siting of proposed facilities outlined in Section 54.25 - Hood River County Land Use Compatibility Statement, paragraph A., items 1-3 and B, the Department of Environmental Quality (DEQ) in conjunction with the applicant shall appoint, support and utilize a local citizen advisory committee comprised in part of residents living near or along transportation routes to the facility and site. At least one-half of the committee members shall be nominees submitted by the Hood River County Board of Commissioners or the cities of Hood River or Cascade Locks. The committee shall be appointed as soon as feasible by the DEQ, but prior to the Hood River County Planning Commission's hearings as outlined in Section 54.25 of this ordinance so that adequate testimony can be provided at the Commission's hearing.
- B. The committee shall provide a forum for local citizen comments, questions and concerns about the site and facility. The committee will provide a dialogue between Hood River County (Planning Commission and Board) and the cities of Hood River or Cascade Locks of the proposed facility and the applicant or company interested in siting the facility. The committee shall prepare a written report summarizing local citizen concerns, address provisions and requirements of this ordinance (Article 54 - Hazardous Waste Management) and the manner in which the applicant is addressing these concerns. This report shall be available prior to the Hood River County Planning Commission public hearing.
- C. DEQ may appoint a committee to review a proposed facility described in Section 54.25, paragraph C, or as requested by the Hood River County Planning Commission, Board of Commissioners and Planning Director.
- D. It is the responsibility of the applicant or State to provide an adequate budget, staff and other administrative support to maintain the committee. Failure of the applicant or State to adequately maintain the committee will not result in Hood River County or the cities of Hood River and Cascade Locks in automatically assuming support responsibilities unless so authorized by the Hood River Board of County Commissioners or the cities.
- E. The committee will provide periodic status reports to the Hood River County Planning Commission and Board of Commissioners.

Section 54.40 - Compensation Agreement

- A. Based upon approval of a request by the County Planning Commission and prior to construction, the Board of County Commissioners or cities will enter into a Compensation Agreement to cover the facilities potential economic impacts on Hood River County or the cities of Hood River or Cascade Locks relative to services provided. This Agreement is a

condition of the Planning Commission's approval. The burden of additional costs generated by the proposed facility will be upon the applicant or the State, but not Hood River County or the cities of Cascade Locks or Hood River. The Compensation Agreement will cover at least the following factors and concerns:

1. Costs incurred by Hood River County or the cities as the request;
 2. Training and equipping local fire, police and health department personnel to respond to accidents, spills and other emergencies;
 3. Special monitoring both on and off-site for worker and community health status;
 4. Road improvements and maintenance to assure safe transportation of waste to the site;
 5. Possible changes in property values near the site due to the proposed facility;
 6. A plan to resolve conflicts or disagreements that might develop between the facility operator and the community.
 7. Financial assistance to support technical review by experts accountable to Hood River County.
- B. The Compensation Agreement may contain a requirement or a performance bond as deemed necessary by the County or cities.
- C. Failure to establish a Compensation Agreement will result in denial of the facility by Hood River County.

APPENDIX "A"

DEFINITION PCB

A. ORS 466.505 Definitions, paragraph (1): "PCB" means the class of chlorinated biphenyl, terphenyl, higher polyphenyl, or mixtures of these compounds, produced by replacing two or more hydrogen atoms on the biphenyl, terphenyl, or higher polyphenyl molecule with chlorine atoms. "PCB" does not include chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures of these compounds, that have functional groups attached other than chlorine unless that functional group on the chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures thereof of these compounds, is determined to be dangerous to the public health under ORS 466.525

B. WHAT ARE PCBs: PCBs or polychlorinated biphenyls, are chemical compounds similar to DDT and dieldrin. They are generally colorless, odorless liquids with a thick, molasses-like consistency. Although fire-resistant, they are relatively good conductors of heat but poor conductors of electricity. The compounds have high boiling points and do not dissolve easily in water.

PCB compounds belong to the family of chlorinated hydrocarbons in which chlorine has replaced hydrogen in the molecular structure. There are over 100 varieties of PCB, each containing a slightly different number or arrangement of chlorine atoms. Chlorine content in PCB compounds commercially available in the U.S. ranges up to 68 percent; the higher the percentage, the higher the compounds' boiling point. Recent evidence also suggests that the higher the chlorine content, the more toxic and persistent the PCB compound is.⁴

C. WHAT ARE THEY USED FOR: Because of their chemical and thermal stability and low conductivity of electricity, PCBs are very useful as industrial chemicals. Today they are used principally as coolant insulation fluids in electrical transformers and capacitors. About 70 percent of the PCBs produced in the U.S. are used in capacitors, the balance in transformers.

Before 1971, PCBs saw a much greater variety of uses. They were added to adhesives, plastics, paints, varnishes, sealants, and other surface coatings, and they were widespread as a component of carbonless carbon papers.⁵

D. WHY ARE PCBs A PROBLEM: Studies have shown that PCBs are highly toxic to animals and man.

⁴ Copyright 1976 by the Board of Regents of the University of Wisconsin Sea Grant College Program with funding from the National Oceanic and Atmospheric Administration, U.S. Department of Commerce and the state of Wisconsin.

⁵ Ibid

They were first recognized as a problem by scientists in Sweden in 1966. But they came to worldwide attention in 1968 when five people died and 1,000 others were stricken in Japan after eating cooking oil contaminated by PCBs. Since that time, Japan has banned all import and production of these compounds.

PCBs came back into the news recently in this country when it was discovered that high, possibly dangerous levels of these compounds were being found in some freshwater fish, particularly in the Great Lakes. Although severe injury from short-term exposure to PCBs is unlikely, scientists are concerned about the effects caused by long-term, low-level exposure to the compounds.

The fact that PCBs seem to persist in the environment for long periods of time and are hard to eliminate makes them more of a threat. Today these compounds are found all over the globe--in Arctic polar bears, New York chickens, England's rainfall, human blood plasma, the world's oceans and mother's milk.⁶

FOR ADDITIONAL INFORMATION REGARDING PCBs, CONTACT THE STATE
DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) OR THE ENVIRONMENTAL
QUALITY COMMISSION (EQC).

⁶ Ibid