

APPENDIX 8: DEVELOPING CODES, LAWS & REGULATIONS

DEVELOPING, IMPLEMENTING & ENFORCING SOLID WASTE CODES, LAWS & REGULATIONS

Enforcement is ineffective without a solid waste ordinance or code to back it up. A strong solid waste ordinance outlines acceptable waste disposal methods and prohibits illegal dumping. This appendix specifically focuses on creating local codes, ordinances and regulations.

A number of rural communities and villages have adopted codes, ordinances, or regulations to address solid waste management issues. Some have well-established regulatory programs they are actively implementing and enforcing. The majority of communities, however, currently have no formal solid waste regulations; many might have been aware of the value of solid waste management codes, ordinances, and regulations but might have lacked the means to fund them. Your community should decide whether or not developing a solid waste regulatory program is feasible or desirable approach for address your community's waste management needs.

In contrast with many larger cities and federal and state management programs, most rural communities rely on non-regulatory measures and use them only as a last resort. This appendix can help you determine whether a regulatory, non-regulatory, or combination approach will best meet your solid waste management needs. Because the majority of rural communities in Alaska are still in the process of considering whether to develop solid waste codes and ordinances, the emphasis of this appendix is on the early stages of "code development."

Establishing a solid waste regulatory program for a community typically involves three main steps: 1) code development; 2) implementation; and 3) enforcement. This appendix addresses each of these steps and suggests issues to consider at each stage.

STEP 1: DEVELOP A STRONG SOLID WASTE ORDINANCE.

When developing a solid waste ordinance, a community might identify the need for a regulatory program, define the scope of the ordinance, and draft an ordinance. Some communities may have the resources to develop a comprehensive solid waste ordinance. However, most small communities are limited by funding, staffing, or time in their ability to develop and adopt regulations that address all their waste management needs. For those communities, developing more focused ordinances or regulations that address a single priority issue, or a few select issues, might be the preferred approach.

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WHY WOULD YOUR COMMUNITY WANT A SOLID WASTE MANAGEMENT ORDINANCE?

There are a number of questions your community can discuss and review when it is determining whether to develop a solid waste management ordinance. Some of the questions you might consider include:

- ❖ When are voluntary waste management standards sufficient, and in what situation are formal regulations necessary?
- ❖ Are there some waste management issues for which your community will need an ordinance (i.e., managing open dumps)?
- ❖ What are the reasons your community wants a solid waste management ordinance (e.g., to promote community waste management goals, to protect public health and the environment, and to protect subsistence resources)?

The number, complexity, and importance of solid waste management issues can differ significantly among communities. As a result, the approach used in developing a local solid waste regulatory program can vary from community to community.

➤ **Identify and Prioritize Waste Management Issues**

The first step in determining the type of regulatory approach that best meets your community's needs is identifying and prioritizing your community's waste management issues. Your community, staff, and local government all can help identify and prioritize key issues. Local officials and residents in other communities that share common waste management concerns also might be consulted. Although specific issues and priorities are likely to differ among communities, you will share a number of waste management concerns including:

- Open dumping
- Cleanup and closure of open dumps
- Open burning
- Abandoned vehicles, tires, and vehicle-related wastes
- Abandoned large appliances and furniture
- Landfill siting, construction, and operation and maintenance

After you have identified and prioritized the important waste management issues for your community, you will need to decide whether you want to address any or all of these issues through ordinances or regulations. Involving community members at this stage is

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critical to ensuring that the issues identified as needing some form of regulation are truly the issues most important to your community.

Public involvement at this step also will help you understand how a regulatory program will potentially affect and benefit community members. Community members are much more likely to respect and follow local ordinances if your community has through an open process for developing and adopting a solid waste ordinance for your community. Community members' involvement at this stage also will help local officials draft an ordinance that is consistent with and promote community values and traditions.

➤ **Ensure Consistency and Coordination with State and Federal Regulatory Programs.**

City and tribal governments, as well as the State of Alaska and federal government, are responsible for regulating the environment and protecting the health, welfare, and resources of a community's residents and citizens. In most rural communities, your city or tribal council will have the authority to develop a solid waste ordinance for your community. If your community chooses not to draft and implement a local solid waste ordinance, then your community will be expected to follow state and federal laws and regulations that control the disposal and management of solid and hazardous wastes.

In carrying out their local authority and responsibilities some rural communities and villages have developed, or may be considering, waste management ordinances as a part of their local solid waste management program. Once your community identifies and prioritizes your local waste management issues, you can identify what state and federal regulatory programs are already in effect to address your community's waste management concerns and how developing local regulations or ordinances can build upon those existing programs. Local and tribal solid waste regulations can be particularly helpful if they are written in a manner that is consistent and coordinates with state and federal regulations.

The primary federal solid waste law is the Resource Conservation and Recovery Act (RCRA). Congress enacted it in 1976. The Act's main goals are to protect human health and the environment from the potential hazards of waste disposal, conserve energy and natural resources, reduce the amount of waste generated, and ensure that wastes are managed in an environmentally sound manner. This law applies to both state and local governments and provides the foundation for most solid waste laws and regulations.

Waste management practices that directly or indirectly impact groundwater, surface water, and air resources in rural communities also can be subject to state and federal regulatory requirements. Certain federal regulatory programs, including the Clean Water Act, the Safe Drinking Water Act, and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or "Superfund") also may be applicable to tribes and local governments. Refer to the Appendix ___ for details on these regulations and other state laws and regulations applicable to waste management. In most cases, state law follows federal law. For those communities with a recognized tribe or tribal

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government, there may be opportunities for the tribe or tribal council to receive financial assistance, technical assistance, or cooperative enforcement from EPA and other agencies that can help in your efforts to address impacts from waste management. For more information on assistance to tribes and tribal governments, contact an EPA Tribal Liaison at EPA's offices in Anchorage or the EPA Region 10 office in Seattle.

➤ **Draft a Local Code or Ordinance.**

Although local regulations can differ significantly in their scope and complexity, they generally include the following elements:

- ***Purpose and Scope***
The purpose and scope of a code or ordinance typically discusses why your community is developing the regulations, who is subject to the regulations, where the regulations apply, and what activities are covered by the regulations.
- ***Definitions***
This section of the code or ordinance will define terms that are important in understanding, implementing, and enforcing the regulations.
- ***Program Requirements, Procedures, or Standards***
Program requirements, procedures, and standards typically describe how the community will carry out regulations and might include waste management procedures, permitting and operating requirements, and activities or actions that are prohibited.
- ***Enforcement***
The enforcement section typically includes a schedule of fees or penalties for violating the requirements contained in the regulations and might include other enforcement mechanisms and authorities.
- ***Administration***
This element typically identifies the responsibilities and procedures for implementing, revising, and/or updating the regulations.

The following is an example of a “statement of purpose” that can be used in a solid waste code.

- (1) *Provide environmental and health standards for the collection and disposal of solid waste;*
- (2) *Prohibit future open dumping and littering of waste in the community and eliminate unhealthy, unsightly, and indiscriminate disposal or placement of solid waste; and*

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- (3) *Inform and education persons living in the community on the need to participate fully in efforts to manage solid waste generation, transportation, and disposal in the community.*

At the end of this Appendix an ordinance drafted and adopted by the City of Mountain Village has been included for a reference and as an example of what an ordinance regulating solid waste management in a rural community would contain and how it would be structured.

STEP 2: IMPLEMENT YOUR SOLID WASTE MANAGEMENT CODE.

Once your community drafts and adopts codes or an ordinance, your next step is to implement them. To effectively implement a regulatory program, community members will need to understand the specific requirements of the regulations, as well as why it is important to follow the regulations. Community members should understand the benefits of compliance and the consequences of non-compliance.

The two areas of regulatory program implementation discussed in this appendix are:

- Supporting and sustaining the regulatory program.
- Coordinating the regulatory program with other, non-regulatory waste management activities and efforts.

➤ Support and Sustain Your Community-Based Regulatory Program

Developing, implementing, and sustaining a successful regulatory program requires not only financial and technical resources, but also might require approval from community or tribal members. Coordination with state regulations is very important as well.

- ***Financial Support***

Determining how to adequately fund a long-term regulatory program can be a major challenge for local and tribal governments. Your community will need to determine if it will fund its regulatory program through internal funding sources, such as by charging user fees at solid waste facilities or by assessing penalties for violating local solid waste regulations. Additionally, outside funding sources might support and sustain the costs of developing your solid waste management program. Your community might use some combination of funding sources to set up a regulatory program that meets its needs and goals over the long term.

Unfortunately, lack of adequate funding often is the primary limiting factor in a community's ability to develop and implement regulatory, as well as non-regulatory, waste management programs. Your community can consider the anticipated cost of developing and implementing regulations, and its ability to support those costs, when determining the best regulatory approach. Your

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community will also need to consider the costs associated with building or using a landfill, transfer station or other disposal facility.

▪ ***Technical Support***

In addition to financial support, technical support, including access to regulatory, technological and economic guidance, will help your community develop, implement, and sustain its regulatory program. Technical resources are available via the Internet or on CD-ROM from the EPA website or agency offices, as well as through access to technical assistance and expertise, reports, and reference guides. Technical support may be available through interaction with federal and state agency staff, or networking with other community and tribal staff or Native organizations, consultants, or other waste management businesses and organizations.

Any community that wants to start up an integrated waste management program should consider three important elements of success:

1. Recognizing its solid waste problems;
2. Obtaining public support; and
3. Being open to technical assistance from outside sources.

Common partnerships include working with local, state and federal agencies, along with a non-profit organization and a local group to establish a solid waste management program and regulations.

▪ ***Public Support***

The ability to successfully develop and implement waste management regulations depends on the willing compliance of community members. Even a well-funded community-based regulatory program might not be successful if it does not receive support and approval from community members. For this reason, you might consider involving community members in all of the development and implementation phases of your regulatory program. Regulations are more likely to have community support when their development process is open and inclusive. Furthermore, acceptance may be more forthcoming when it is clear that their purpose is to promote community goals and values and to protect the health and resources of your community.

▪ ***Intergovernmental Support***

Waste management issues sometimes are regional, so successfully implementing a new community regulation might require coordinating local regulatory programs with other local, borough, or state regulatory programs.

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➤ **Coordinate Your Regulatory Program with Other Non-Regulatory Programs.**

Successful waste management efforts can include both regulatory and non-regulatory programs. Non-regulatory programs are based on the idea that if community members understand how to manage their waste and the health and environmental impacts of proper disposal and if affordable options are widely available, then they will manage their solid waste in a manner that protects community health and resources.

Focused regulatory measures are important tools that can help communities when non-regulatory measures alone are not effective. To be most effective and efficient, you community can coordinate regulatory measures with non-regulatory actions or practices to the maximum extent possible. Codes and ordinances might focus on identifying actions or practices that your community wants to strictly regulate or prohibit, such as open dumping, open burning, or disposal of hazardous wastes. Non-regulatory programs can provide means, incentives, and options for meeting those requirements.

When developing codes and ordinances, consider how regulatory and non-regulatory programs can complement each other. The following examples, illustrate how communities can set up complementary regulatory and non-regulatory programs.

- ***Recycling***

Communities can coordinate waste management regulations with a recycling program by requiring certain waste disposal practices, such as: separating recyclables from waste to facilitate recycling efforts; prohibiting disposal of certain recyclable materials; requiring businesses and large waste generators to prepare recycling plans, encouraging recycling through regulatory initiatives such as “buy recycled” programs; or setting community goals to reach a certain recycling rate.

- ***Composting***

Communities can coordinate waste management regulations with various voluntary composting options. Communities can set prohibitions or limitations on the disposal of certain waste materials, such as animal wastes, that community members can compost in available facilities.

- ***Source Reduction***

Communities can coordinate waste management regulations with solid waste source reduction efforts that are common to many existing community waste management programs. Public information can support source reduction efforts. These might focus on city and school procurement and purchasing requirements, promoting the use of recycled paper or double-sided copying, or goals for reducing generation of solid waste by a particular year.

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- ***Household Hazardous Waste Collection***

Communities can coordinate regulations with non-regulatory efforts to remove household hazardous waste, including paint, batteries, used oil, and cleaning products, from the waste stream.

Your community may want to hold a household hazardous waste collection event designed to attract as many residents as possible, to make them aware of the new regulations, provide advice on safe household hazardous waste characterization and handling procedures, identify non-hazardous substitutes for common hazardous household products, and remove as much existing household hazardous waste as possible from your community's waste stream.

The implementation provisions of many existing local solid waste regulations include prohibitions on certain activities, such as open dumping or open burning of solid waste. They also might include planning requirements, performance standards, design criteria, identification of acceptable waste management practices, and numerous other provisions for implementing regulatory programs. Though implementation provisions can vary significantly depending on the scope, complexity, and number of issues addressed, prohibitions are among the most common methods for implementing community regulations.

The following are examples of prohibitions that can be included in a community-based waste management code.

- *“Prohibition on Open Dumping – In order to protect the limited land, air, and water resources of the community from irremediable hazardous pollution and to protect the health, safety, and welfare of all residents of the community and surrounding communities, disposal of solid waste in any open dump is expressly prohibited within the exterior boundaries of the community.”*
- *“No person shall generate, store, transfer, transport, treat, discharge, release or dispose of a hazardous waste through the conduct of any business in the community, except as permitted under this ordinance.”*
- *“No person shall dump on any village corporation lands the following, which includes, but is not limited to, any rubbish, refuse, cans, bottles, paper, used tires, non-running vehicles, including cars, truck, four-wheelers, and snow machines, used batteries, motor vehicle oils or fluids, sewage, garbage or other toxic and hazardous wastes.”*

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STEP 3: ENFORCE YOUR SOLID WASTE MANAGEMENT CODE.

Once you have developed and adopted an ordinance or regulations and implemented your regulatory program, you will need to enforce your requirements. To be most effective, regulatory enforcement should focus on the highest priority issues. Identifying these issues will be most effective if community members are involved. Enforcement provisions in existing community regulations vary widely. Typical forms of punishment for violating a community' solid waste management code include fines, community service, paying for clean-up of a dump site or spill, or helping with solid waste management activities.

Resources

For further information on drafting solid waste management codes and ordinances you can contact the following resources:

- U.S. Environmental Protection Agency including the Region 10 office in Seattle, Tribal Solid Waste Management Program, EPA Tribal Liaison in Anchorage, Alaska or you can find information at www.epa.gov/epaoswer.
- State of Alaska Department of Environmental Conservation or State of Alaska Department of Community and Economic Development offices in regional centers, including Juneau, Anchorage and Fairbanks.