

PUBLIC NOTICE

On December 11, 2023, at 9:30 a.m., the Commissioners Court of Anderson County, Texas, will hold a public hearing pursuant to Texas Health and Safety Code § 364.012 at the Anderson County Courthouse Annex, County Courtroom, located at 703 N. Mallard, Palestine, Texas, to consider an ordinance prohibiting solid waste disposal in certain areas of the county, and an Ordinance Designating Areas in Anderson County, Texas, where Municipal or Solid Waste Disposal is not Prohibited Pursuant to Texas Health and Safety Code Section 364.012 and Prohibiting Solid Waste Disposal in Other Areas. Any ordinance which is adopted will also specify an area within the county in which solid waste disposal is not prohibited. Any interested citizen may attend and testify at the hearing.

The Anderson County Commissioners Court conducted a Takings Impact Assessment concerning this proposed action. In summary, the Takings Impact Assessment resulted in the following determinations: 1) that the purpose of the proposed action is to protect the health, safety, welfare and property of individuals from the threats presented by solid waste disposal operations; 2) that the proposed action is a “covered action” as defined in the Private Real Property Rights Preservation Act because it consists of the adoption of an ordinance; 3) that no existing private property rights will be affected because no person who presently has a right to dispose of solid waste within the County will be affected by the Ordinance; 4) that the proposed action is exempt from the Private Real Property Rights Preservation Act; 5) that the proposed action will not reduce the market value of any property owner’s property by more than 25%; and 6) that there are no reasonable alternatives to the proposed action that would further the same purpose. A copy of the complete Takings Impact Assessment can be obtained from the Anderson County Judge’s Office.

The proposed ordinance is set forth below, and a copy of the proposed ordinance is available for public inspection during normal office hours at the County Judge’s Office, Anderson County Courthouse Annex, 703 N. Mallard. At the conclusion of the public hearing, the Commissioners Court may take action on the proposed ordinance.

Ordinance No. AC-ORD-2023-0001

AN ORDINANCE PROHIBITING SOLID WASTE DISPOSAL IN ANDERSON COUNTY, AND PROVIDING CIVIL AND CRIMINAL PENALTIES

Be it ORDAINED, ORDERED and ADOPTED by the Commissioners Court of Anderson County, Texas:

Pursuant to Texas Health and Safety Code Section 364.012, the Anderson County Commissioners Court adopts this ordinance, An Ordinance Designating Areas in Anderson County, Texas Where Municipal and Solid Waste Disposal is Not Prohibited and Prohibiting Solid Waste Disposal in Other Areas.

SECTION 1. DEFINITIONS

- a. "Disposal" means the discharging, depositing, injecting, dumping, spilling, leaking, or placing of solid waste or hazardous waste, whether containerized or uncontainerized, into or on land or water so that the solid waste or hazardous waste or any constituent thereof may be emitted into the air, discharged into surface water or groundwater, or introduced into the environment in any other manner.
- b. "Solid waste" means garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, and mining operations and agricultural operations and from community and institutional activities.

SECTION 2. AUTHORITY

A county may prohibit the disposal of municipal or industrial solid waste in the county if the disposal of the municipal or industrial solid waste is a threat to the public health, safety, and welfare. TEX. HEALTH & SAFETY CODE § 364.012.

SECTION 3. APPLICABILITY

This Ordinance does not apply to:

- a. Areas inside the corporate limits of any municipality;
- b. Areas for which a pending application for a solid waste permit or other solid waste authorization under Chapter 361, Texas Health & Safety Code, has been filed with the Texas Commission on Environmental Quality or its predecessor agency;
- c. Areas for which a solid waste permit or other solid waste authorization under Chapter 361, Texas Health & Safety Code, has been issued by the Texas Commission on Environmental Quality or any of its predecessor or successor agencies provided that the permit or other authorization is effective and valid on the effective date of this ordinance; or
- d. Areas that do not require a permit for the collection, handling, storage, processing, and disposal of industrial solid waste that is disposed of within the boundaries of a tract of land that is: (1) owned or otherwise effectively controlled by the owners or operators of the particular industrial plant, manufacturing plant, or mining operation from which the waste results or is produced; and (2) located within 50 miles from the plant or operation that is the source of the industrial solid waste. Texas Health & Safety Code § 361.090.

SECTION 4. GENERAL PROVISION AND FINDINGS

WHEREAS, the Anderson County Commissioners Court has both the responsibility and the authority to protect the health, safety and welfare of the citizens of Anderson County, Texas and their property interest; and

WHEREAS, the disposal of solid waste is an activity that has high potential to negatively impact the health, safety and welfare of any community; and

WHEREAS, the Commissioners Court believes and hereby finds that further disposal of solid waste in additional areas of the county would constitute an unacceptable risk and threat to the public health, safety and welfare for the reasons and findings stated below, among many others, to wit:

The Court finds that the disposal of solid waste in general may negatively influence property values; and

The Court finds the use of all present technology and science with regard to the location, installation, operation and maintenance of municipal, industrial and hazardous solid waste disposal sites cannot guarantee or ensure that such sites will not contaminate, spoil and pollute areas surrounding and distant to said disposal sites;

This Court further finds that if the substances contained within disposed of solid waste escape into the air or waterways, including subsurface waterways, significant threats to the public health, safety and welfare will exist; and

This Court finds that the nature of the soils of Anderson County is such that it would allow migration of waste and hazardous materials to the contamination of groundwater, which many citizens rely on for drinking water.

The Court further finds that the traffic associated with the disposal of solid waste, which involves receiving and dispatching a large number of heavy trucks hauling waste, constitutes a hazard to the public health and a threat to the public roads;

The Court further finds that waste streams that can be received in municipal and non-hazardous industrial waste facilities include chemicals that are toxic, corrosive, flammable and explosive, and that such substances present a threat to the public health, safety and welfare;

The Court finds that the prohibition of solid waste disposal as provided in this ordinance is necessary to prevent a grave and immediate threat to life and property; and

The Court finally finds that such a prohibition is a necessary response to a real and substantial threat to public health and safety, that such a prohibition will significantly advance the health and safety of the public and that the prohibition does not impose a greater burden than necessary to protect the public health and safety under the circumstance;

SECTION 5. DISPOSAL OF SOLID WASTE ALLOWED

IT IS ORDAINED AND ORDERED that the disposal of solid waste within Anderson County, Texas is not prohibited in the following area:

A0707 Sims, William, Block 842, Tract 6, containing 50.0 acres, Account No. R0046169, Anderson County Appraisal District; and
A0707 Sims, William, Block 842, Tract 7, containing 49.6080 acres, Account No. R0046170, Anderson County Appraisal District.

SECTION 6. DISPOSAL OF SOLID WASTE PROHIBITED

IT IS FURTHER ORDAINED AND ORDERED that the disposal of municipal solid waste and industrial solid waste is **PROHIBITED** in all other areas of Anderson County, Texas.

SECTION 7. CIVIL REMEDIES AND PENALTIES

- (a) Any violation of this ordinance is subject to a civil penalty of \$10,000.00 for each violation. Such penalty to be forfeited to Anderson County, Texas. Each day that a violation continues constitutes a separate ground for recovery.
- (b) The Commissioners Court of Anderson County, Texas, may bring a legal action to enjoin violations of this ordinance and seek judgment for any civil penalties.

SECTION 8. CRIMINAL PENALTY

- (a) Disposal of solid waste in violation of this ordinance constitutes a class C misdemeanor punishable by a fine not to exceed \$500.00.
- (b) Each day that a violation continues constitutes a separate offense under this ordinance.

SECTION 9. SEVERABILITY

If any portion of this ordinance is deemed to be in violation of the statutes or the constitution of this state or the United States by a court of competent jurisdiction, said portion shall be severed, and the remaining portions of the ordinance shall remain in full force and effect.

SECTION 10. EFFECTIVE DATE

This ordinance shall become effective immediately upon adoption.

Read and adopted this _____ day of _____, 2023, by a vote of _____ ayes and _____ nays.

Carey G. McKinney, County Judge

ATTEST:

County Clerk