

COUNTY ORDINANCE NO. 98-06

A BILL ENTITLED

AN ACT concerning

Sewage Sludge Storage Facilities

FOR the purpose of regulating the location of permanent sludge storage facilities in Queen Anne's County; providing setbacks and height limitations thereon; defining certain terms and generally relating to the regulation of sewage sludge storage as a land use in Queen Anne's County.

WHEREAS, by virtue of the authority contained in Article 25B, Section 13, the County Commissioners of Queen Anne's County are authorized to adopt, and from time to time amend, revise, rescind or change the Zoning Ordinances for Queen Anne's County; and

WHEREAS, the adoption of an amendment to the 1994 Zoning Ordinance is necessary in the public interest, for the efficient management of growth, the protection of natural resources, and the preservation of the County's rural character; and

WHEREAS, it is necessary to amend the 1994 Ordinance as previously adopted to better serve the needs and interests of the people of Queen Anne's County and to better implement the policies recognized in the State's plan for Smart Growth; and

WHEREAS, the county planning staff has recently engaged in a review of the compatibility of land uses with reference to the storage of sewage sludge *vis a vis* other uses of land, a review of other Maryland counties' provisions regarding sludge storage, and of the locations of existing permanent sludge storage facilities in Maryland; and

WHEREAS, the county planning staff will be undertaking a thorough review of the county's comprehensive plan, beginning on July 1, 1998, and allowing uses to develop during the planning period that are likely to conflict with incompatible land uses would defeat the purpose of

the planning process and harm the general welfare.

NOW, THEREFORE, The County Commissioners of Queen Anne's County do hereby ordain as follows:

Section 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY that Section 4001 of the Queen Anne's County Zoning 1994 Ordinance is amended by adding Subsection G, which shall read as follows:

SECTION 4001. USES PERMITTED BY RIGHT, USES PERMITTED WITH CONDITIONAL USE APPROVAL, AND USES NOT PERMITTED.

* * *

- G. The storage of sewage sludge is permitted as a conditional use in any district at or adjacent to a Publicly Owned Waste Water Treatment Plant as an accessory use to the treatment of sewage, septage or other wastes at that Treatment Plant.

The storage of sewage sludge is otherwise prohibited, except that the storage of sewage sludge is a conditional use in an agricultural district, but only for storage for land application on the farm on which the storage is proposed, and the storage capacity is not to exceed one-half of the total annual volume of sludge to be applied on that farm, as approved by the Secretary of the Maryland Department of the Environment.

OFFICIAL COMMENT

This Ordinance is intended to limit the development of sewage sludge storage facilities in areas incompatible for the use. The county staff is making an overall study and review of the County's comprehensive plan and county zoning ordinance. During the period of the study, it is imprudent to allow the development of a use that may later be found inconsistent with the Comprehensive Plan, zoning, and the water, sewer and solid waste plans.

Land application of sewage sludge on agricultural land that is being farmed is an agricultural use, if properly permitted by the Maryland Department of Environment (MDE).

With the possible exception of temporary stockpiling of sludge for land application that may be permitted by the MDE, however, pursuant to COMAR 26.04.06.09.G(6) (for up to seven days), sludge storage is not accessory to an agricultural use. Farmers have no “constant need” for sludge.

Rather, as the Carroll County Board of Zoning Appeals found, which finding was upheld by the Court of Special Appeals in *Enviro-Gro Technologies v. Bockelman*, 88 Md. App. 323, *cert. denied*, 325 Md. 94 (1991), sludge storage is “simply a link in the chain of sludge transport and eventual disposal” by the waste disposal industry and is mandated by the sludge haulers’ contractual obligations “to remove sludge from municipal facilities [waste water treatment plants] on a regular basis,” regardless whether MDE regulations or whether conditions permit land application at a particular time.

For reasons of efficiency, as well as harmony with surrounding land uses, sludge storage is thus best accommodated where the industrial use of a waste water treatment plant is already sited. Appropriately trained personnel and the necessary material and equipment to handle spillage and other problems that might arise are also most efficiently located at such a site.

Many farmers in this County apply sludge to their land immediately when it is hauled in, without storing the sludge on site. If a particular farmer should choose to want to store sludge on his or her farm for land application, the temporary stockpiling process established by MDE should suffice. If that is inadequate, a sludge storage facility may be permitted as a conditional use, but only in a capacity to hold no more than one-half the total annual volume of sludge to be applied to the farm, and not for distribution to other farms or other land application destinations, such as marginal land.

Section 2. BE IT FURTHER ENACTED that Section 4002 of the 1994 Queen Anne’s

County Zoning Ordinance is amended by amending subsection E.3. and by adding footnote 7, to read as follows:

	AG	CS	E	SE	SR	UR	UC	VC	LI	SI	HS	SC	NC
3. Extraction and Disposal													
a. In general	C	C	N	N	N	N	N	N	C	C	N	N	
b. Sludge storage ⁷	C	N	N	N	N	N	N	N	N	N	N	N	

7. Sludge storage is a conditional use, however, at a waster water treatment plant. See § 4001.G., *supra*.

Section 3. BE IT FURTHER ENACTED that Section 7203 of the 1994 Queen Anne’s

County Zoning Ordinance is amended by amending subsection C.2.b. to read as follows:

- b. Setbacks. No excavations or quarry walls shall be located within fifty (50) feet of any lot line, one hundred twenty-five (125) feet from any street right-of-way, nor within two hundred (200) feet of any residential or commercial district boundary line. No disposal area or structure that is used to store, compact, treat, or dispose of waste, including but not limited to sludge, shall be located within one hundred twenty-five (125) feet of any lot line; one hundred twenty-five (125) feet of any street; within three hundred (300) feet of any perennial or intermittent stream or any nontidal wetlands of Special State Concern or any nontidal wetlands that are hydro logically connected to floodplains, perennial or intermittent streams; within three hundred (300) feet of any property lines towards which groundwater flows; or within one-thousand (1,000) feet of any residential, not-for-profit institutional, or group day care uses.

Section 4. BE IT FURTHER ENACTED that Section 7203 of the 1994 Queen Anne’s

County Zoning Ordinance is amended by adding subsection C.2.f. to read as follows:

- f. Height Limitation. No disposal area or structure that is used to store, compact, treat, or dispose of waste, including but not limited to sludge, shall exceed a height of forty-five (45) feet from the grade of the site prior to any disturbance.

Section 5. BE IT FURTHER ENACTED that Section 2300 of the 1994 Queen Anne’s

County Zoning Ordinance is amended by adding the following definitions (to be inserted in

alphabetical order among the previously stated definitions) to read as follows:

Sewage Sludge (or Sludge). The accumulated semiliquid suspension, settled solids, or dried residue of these solids that is deposited from sewage in a waste water treatment plant, whether or not these solids have undergone treatment.

Sludge, Land Application. An agricultural practice by which treated sewage sludge is applied to cropland as a nutrient supplement in accord with standards promulgated and permits validly issued by the Maryland Department of the Environment. The land application of sewage sludge for research purposes or for disposal purposes, including, but not limited to, application on marginal land, is not an agricultural practice.

OFFICIAL COMMENT

It is not the intent of this Ordinance to prohibit the application of treated sewage sludge to cropland as a normal agricultural practice, ^{i.e.} and to utilize sludge in reasonable amounts as a nutrient supplement. The allowance of such agricultural practice, however, should be distinguished from MDE's permitting of land application for research purposes and land application for disposal purposes which could be either on marginal land or through over application on agricultural land.

Sludge Storage. The interim containment of sewage sludge, treated sewage sludge, or any other product containing these materials after removal from the waste water and before disposal or utilization.

Section 6. Severability.

Should any provision, section, paragraph or subparagraph of this Ordinance, including any code or text adopted hereby, be declared null and void, illegal, unconstitutional, or otherwise determined to be unenforceable by a Court having jurisdiction; the same shall not affect the validity, legality, or enforceability of any other provision, section, paragraph or subparagraph hereof, including any code or text adopted hereby. Each such provision, section, paragraph or subparagraph is expressly declared to be and is deemed severable.

Section 7. Section Headings, Chapter Headings, Titles.

Section headings, chapter headings, titles, etc. are for the purpose of description or ease of

use and do not form a part of the text of this Ordinance or any Code or text adopted hereby.

Section 8. Official Comments.

Where there appear "Official Comments" to portions of this Ordinance, those comments are included to reflect the intent of the drafters and the County Commissioners in the event it is necessary to construe that intent. These comments may be used for purposes of construction and interpretation only.

Section 9. Effective Date.

This Ordinance shall become effective on the forty-sixth day following its passage. However, it is to be filed with the Clerk of the Court and a fair summary of the contents of this Ordinance is to be published as required by Article 25, Section 4, of the Annotated Code. Should there be a failure so to file or so to publish then this Ordinance shall be effective despite that failure.

INTRODUCED BY: COMMISSIONER Mike Zimmer
DATED: MARCH 3, 1998
PUBLIC HEARING HELD: _____
VOTE: _____ YEA _____ NAY
DATE: _____

Withdrawn Bill on 4/17/98
due to incorrect coding