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WHITE COUNTY BOARD OF COMMISSIONERS

ORDINANCE NO. 2009-12

**ORDINANCE GOVERNING THE LOCATION OF FACILITIES
ENGAGING IN THE LAND APPLICATION OF HUMAN WASTE
AND SEPTAGE OR COMMERCIAL WASTE, OR BOTH
AND FOR OTHER PURPOSES**

WHEREAS, the Board of Commissioners of White County is authorized to adopt ordinances or regulations for the governing and policing of the County and for the purpose of protecting and preserving the health, safety, welfare and morals of the citizens of the County as granted by law and consistent with State law; and

WHEREAS, the Board of Commissioners has determined that facilities engaging in the land application of human waste and septage or commercial waste or both present issues best addressed by separate and distinct regulations governing the placement of such facilities, prevention of a public nuisance, promotion of the health of the citizens and prevention of the spread of disease; and

WHEREAS, House Bill 529 (2009) [O. C. G. A. § 2-1-6(b), as amended] recognizes and acknowledges that a local government, such as White County, has the legal authority and existing power to adopt or enforce any zoning ordinance or to make any other zoning decision regarding the land application of human waste and septage, or commercial waste, or both; and

WHEREAS, House Bill 529 (2009) [O. C. G. A. § 2-1-6(c), as amended] recognizes and acknowledges that a local government, such as White County, has the legal authority and existing power to adopt or enforce any ordinance, rule, regulation or resolution regulating the land application of human waste and septage, or commercial waste, or both consistent with State law; and

WHEREAS, the Local Act creating the White County Board of Commissioners provides that the Board [Ga. L. 1970, p. 2993] pursuant to Section 8 of said Act [Ga.L. 1970, p. 2997 amended by HB 1418 (2008)] shall have jurisdiction over the promotion of health and may enact ordinances promoting public health and preventing the spread of disease; and

WHEREAS, the Georgia Constitution (1983) Art. IX, § II, ¶ IV provides that the governing authority may exercise the power of zoning including the placement of facilities engaged in the land application of human waste and septage, commercial waste or both, including setback requirements, parcel size requirements, road requirements and other regulations necessary to protect and preserve the health and safety of White County residents; and

WHEREAS, Art. IX, § II, ¶ III of the Georgia Constitution (1983) provides that Georgia counties, including White County, may exercise powers including but not limited to police powers to protect the health and safety of White County residents, health services to prevent the spread of disease, and air quality control requirements as allowed by law; and

WHEREAS, the failure of facilities engaging in the land application of human waste and septage, or commercial waste, or both to strictly comply with the requirements of its land application system (LAS) permit issued by the Environmental Protection Division can result in conditions dangerous and injurious to the health and safety of White County residents constituting a public nuisance. And O. C. G. A. § 41-2-1, et seq. authorizes White County to adopt ordinances providing for the abatement of such public nuisances; and

WHEREAS, currently there is operating within White County, Georgia, a facility engaging in the land application of human waste and septage, or commercial grease, or both which generates numerous complaints including offensive odors, operations by the facility at night, possible pollution to drinking water wells, possible pollution into the rivers, creeks and streams running through and adjoining the property; and

WHEREAS, in a neighboring county, being Jackson County, a facility known as AgriCycle operated its land application system in violation of the LAS permit issued by EPD, resulting in a treatment pond igniting and burning for several days. The event necessitated fire control by the Jackson County Fire Department and demonstrated the need for such facilities to be accessible by an adjoining state highway or a major arterial roadway in order to allow access by the emergency vehicles of White County including but not limited to fire trucks and pumper trucks; and

WHEREAS, the Environmental Protection Division acknowledges and admits that a local governing authority, such as White County, may enact and enforce local ordinances to regulate the removal, transport and disposal of commercial waste, as long as such local ordinance is not in conflict with EPD rules and Georgia law [Georgia Administrative Code § 391-3-6-.24(14)(a)]; and

WHEREAS, improper operation of a land application system of human waste and septage, or commercial waste, or both, could result in the facility's soil becoming toxic or the creation of a "brown field" or both. Such actions could possibly endanger the public health of White County residents necessitating the expenditure of public funds to prevent disease and illness.

This scenario necessitates that an operator of such a facility demonstrate the existence of an adequate financial responsibility mechanism to demonstrate that sufficient funds will be

available to meet specific environmental protection needs of such land application system sites as a condition of receiving a special use permit and land compliance letter by White County; and

WHEREAS, O. C. G. A. § 12-5-30.3(d) allows a local governing authority in which a sludge land application site is located to assess the generator of the sludge and owner of the sludge land application site reasonable fees for environmental monitoring of the site. Further the local governing authority may hire persons to monitor the site which would allow the pretesting of sludge as a part of the monitoring process; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF WHITE COUNTY, GEORGIA AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE SAME, that the recitals in Chapter 50, Article 2, Sections 50-4 to 50-12 of the Code of Ordinances of White County, Georgia are hereby adopted to provide as follows:

WHITE COUNTY CODE

Chapter 50, Planning and Development

Article 2, Ordinance Governing the Location of Facilities Engaging In the Land Application of Human Waste and Septage, or Commercial Waste, or Both

Section 50-4. Legislative Intent

a) This ordinance incorporates the foregoing recitals by reference, as, in part, the factual basis and the legal basis for the passage of this ordinance. The Board of Commissioners of White County, Georgia, as the governing authority has the legislative intent to adopt rules and regulations relative to facilities that engage in the land application of human waste and septage or commercial waste, or both, that do not fall within the area preempted by State law, but are supplemental regulations imposing restrictions and limitations regarding the placement of such facilities, regulating public nuisances, and preventing the spread of disease, and are police power regulations as are necessary to protect the public health and safety of White County residents, and facilitate the provision of emergency services such as fire control, and other necessary measures to protect the public health.

b) The Board of Commissioners intends that a court of competent jurisdiction in the construction of the provisions of this ordinance consider the legislative intent of the Board of Commissioners that said ordinance be construed not to be in conflict with State law and are additional regulations that impose different requirements that exceed the minimum requirements of State law.

c) It is the legislative intent of the Board of Commissioners of White County, Georgia, being the governing authority of White County, Georgia that any court of competent jurisdiction construe said ordinance also to be in accordance with those areas under State law that are capable of regulation by a local governing authority.

Section 50-5. Severability

The sections, paragraphs, sentences, clauses, terms, regulations, and phrases of this ordinance are severable, and if any section, paragraph, sentence, clause, phrase, regulation, or term of this ordinance shall be declared preempted, illegal, invalid, or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such preemption, illegality, invalidity, or unconstitutionality, shall not affect any of the remaining sections, paragraphs, sentences, clauses, phrases, regulations, and terms of this ordinance. The Board of Commissioners intends that all remaining provisions of this ordinance shall remain effective notwithstanding the invalidation of one or more provisions contained herein. The Board of Commissioners intends that a court of competent jurisdiction in the construction of said ordinance should attempt to achieve the legislative intent of the Board of Commissioners, uphold and enforce all remaining provisions of this ordinance notwithstanding the invalidation of one or more provisions contained herein.

Section 50-6. Definitions

The Definition of the following terms and phrases are as follows:

“Active waste treatment area” shall mean any spray application area for waste water, sewage sludge, sludge, human waste and septage, or commercial waste, or both, solid human waste or commercial waste, or both separation and/or, collection area for human waste or commercial waste, or both, including either solid waste or liquid waste, or both, area for the refinement of human waste, or commercial waste, or both, into solid waste or liquid waste, or both, or area for the application of chemicals to human waste or commercial waste, or both, and being either solid waste or liquid waste, or both. The term shall include the spray application area of any land application system requiring a permit from the Environmental Protection Division of the Georgia Department of Natural Resources.

“Director of Planning” means the individual responsible for planning, directing, managing and supervising County planning activities and landfill operations or a qualified designee approved by the County Manager.

“Facility engaging in the land application of human waste and septage, or commercial waste, or both,” shall mean any structure and application area for the disposal of liquids or solids containing human excrement, septage, wastewater, fats, oils, grease, septic tank contents, industrial wastewater, sewage sludge, sludge, commercial waste or any combination thereof, other than a publicly owned landfill or a publicly owned sewage treatment facility. The term shall also include any facility, which requires a Land Application System Permit from the Environmental Protection Division of the Georgia Department of Natural Resources (a/k/a EPD).

“Financial responsibility mechanism” shall mean a mechanism designed to demonstrate that sufficient funds would be available to meet specific environmental protection needs of sites containing facilities engaged in the land application of human waste, or commercial waste, or both. Available financial responsibility mechanisms include but are not limited to

insurance, trust funds, surety bonds, letters of credit, personal bonds, certificates of deposit, financial tests and corporate guarantees.

“*Land application*” means the spraying of sewage sludge or other treated waste and wastewater on the land surface and which requires a Land Application System Permit from the Environmental Protection Division of the Georgia Department of Natural Resources.

“*Land application system*” means a system for wastewater treatment or disposal by spray irrigation and which requires a Land Application System Permit from the Environmental Protection Division of the Georgia Department of Natural Resources. The term refers to the advanced treatment and disposal of wastewater by irrigation onto land to support vegetative growth.

“*Public*” means individuals or group of individuals not employed, associated or otherwise affiliated with the land application entity and/or operation.

“*Sewage sludge*” means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage, septage, industrial waste water, commercial waste, grease trap waste, fats, oils and grease or a combination of domestic sewage, septage, industrial waste water, commercial waste, grease trap waste, fats, oils and grease and industrial wastewater in a wastewater treatment facility. Sewage sludge includes, but is not limited to scum or solids removed in primary, secondary or advanced wastewater treatment processes.

“*Sludge*” means the solid or semisolid residue generated at a wastewater treatment or pretreatment facility. Such term specifically excludes treated effluent septage and sludge treated to reduce further pathogens by such processes as composting, heat drying or heat-treating.

“*White County*” means the unincorporated areas of White County, Georgia.

Section 50-7. Facilities Engaging In the Land Application of Human Waste and Septage or Commercial Waste, or Both

a) Facilities engaging in the land application of human waste and septage or commercial waste or both, prior to beginning operations, and prior to any expansion of any active waste treatment area of a facility operating under a special use permit and land compliance letter from White County, Georgia, or operating as a legal non-conforming use without a special use permit, within the unincorporated area of White County, Georgia, must receive a special use permit and land compliance letter (as to the expansion for a legal non-conforming use) from White County, Georgia, and their application must meet the regulations provided by this ordinance (and said regulations shall be applicable to any expansion of any active waste treatment area). The Director of Planning and the Planning Department, after submission of an application, shall have one hundred twenty (120) days in which to review the application for compliance with the regulations of this ordinance, and after said review (which shall be longer than the 120th day), schedule the necessary hearing and meetings regarding the special use permit and land compliance letter according to the schedule of regular meetings of the Board of Commissioners

which follow the end of the review by the Planning Department. A proposed operator of a facility engaged in the land application of human waste and septage, or commercial waste, or both, shall make out an application for a special use permit and land compliance letter, on a form acceptable to White County, Georgia, and the application must show that the facility (or any expansion of any active waste treatment area) can comply with the following regulations imposed by this ordinance.

1) Facilities engaging in the land application of human waste and septage or commercial waste, or both, shall be located on tracts of at least one hundred (100) acres. The acreage requirement is necessary to minimize any adverse impact arising from the operations of such facilities by having sufficient areas to provide for active waste treatment areas that meet the setback and buffer requirements of this ordinance. Due to the inherent nature of human waste and septage, or commercial waste, or both, such facilities need sufficient area to minimize the impact of offensive odors and provide sufficient area to serve as a setback to and buffer of adjoining property and the creeks, streams, and rivers of White County, Georgia.

2)

a. Facilities engaging in the land application of human waste and septage, or commercial waste, or both, shall not be located within any district designated by White County as a mountain protection district, a river corridor protection district, a water supply watershed protection district, a groundwater recharge protection district, a wetlands protection district, a protection district containing habitats of endangered or threatened species or districts containing historic or archeological areas and structures including but not limited to family cemeteries. The protection districts shall have those uses allowed by the White County Code, and federal and State law (except not allowing land application systems as provided herein), and with the applicable provisions of the White County Code concerning said protection districts attached hereto as “Appendix 3” and incorporated into this ordinance by reference thereto. (Note that certain historical or archeological areas have been designated and recorded as such by the Georgia Department of Natural Resources, but have not been generally disclosed to the public in order to prevent looting and degradation of said sites.)

b. Applicant must verify with the White County Planning Department that the proposed site does not contain historic or archeological areas or historic family cemeteries which do not appear upon the hereinafter-referenced map and that the active waste treatment areas are set back 1,000 feet away from said sites and have a 300 feet natural buffer to said sites. The Board of Commissioners of White County, Georgia, simultaneously with the passage of this ordinance, hereby adopts a land use and zoning map for the unincorporated areas of White County, Georgia, which designates the

1. mountain protection districts; and
2. river corridor protection districts; and
3. water supply watershed protection districts; and

4. ground water recharge protection districts; and
5. wetlands protection districts; and
6. protected habitat of endangered or threatened species districts; and
7. the historic and/or archeological area; and
8. structures protection districts (as well as designating the general use districts).

c. The area within the Public Lands being national forest and state parks within the unincorporated area of White County, Georgia is not subject to this ordinance due to the jurisdiction of Federal or State law. The remaining unincorporated area, not contained within the above-referenced protection districts and Public Lands being national forest and state park area, shall be general use districts (said districts allowing any general use of property so long as said use does not violate the terms of this ordinance or any other provision of the White County Code, or general law, or any combination thereof) and available for facilities engaging in the land application of human waste and septage or commercial waste, or both, so long as an applicant first receives a special use permit and land compliance letter from White County, Georgia, and the application of said applicant meets the requirements, rules and regulations of this ordinance. The attached land use and zoning map is incorporated into this ordinance by reference as “Appendix 1”

d. The map adopted simultaneously with this ordinance and labeled “Appendix 1”, shall be signed by the Chairman of the Board of Commissioners and the County Clerk, dated as of the date of adoption and the County seal shall be affixed thereto. In the discretion of the Board of Commissioners, the Board may create duplicate originals of the map, identified in the same way and maintained by the County Clerk. The County Clerk shall maintain the map and amendments thereto in the County Clerk’s office as a public record, accessible and available to the public. The County Clerk shall be responsible for maintaining the map and any amendments to the map. The Board of Commissioners, in their discretion, from time to time, may adopt a new map, to correctly display revisions to the map and which also shall be a public record maintained by the County Clerk. The County Clerk shall provide copies of the map to the public in accordance with the Open Records Act policies of the County.

e. The protection district regulations adopted simultaneously with this ordinance and labeled “Appendix 3” shall be signed by the Board of Commissioners Chair and the County Clerk, dated as of the date of adoption and the County seal shall be affixed thereto. The County Clerk shall maintain the protection district regulations in the County Clerk’s office and which shall be a public record, accessible and available to the public. The County Clerk shall be responsible for maintaining the protection district regulations and amendments, adopted from time to time by the County Commissioners. The Board of Commissioners, in their discretion from time to time, may adopt new protection district regulations, and which also shall be a public record maintained by the County Clerk. The

County Clerk shall provide copies of the protection district regulations to the public in accordance with the Open Records Act policies of the County.

3)

a. Facilities engaging in the land application of human waste and septage or commercial waste, or both, shall have a minimum of 200 feet of frontage upon a state highway or road classified as a minor arterial roadway according to the comprehensive plan of the County (and have sufficient frontage to accommodate the deceleration lane required herein). As a condition of receipt of a special use permit and land compliance letter from White County regarding a facility engaged in the land application of human waste and septage, or commercial waste, or both, said site shall have a commercial driveway that meets the standards for commercial driveways promulgated by the Georgia Department of Transportation (GDOT) at the time of the application for the special use permit and land compliance letter, or shall post a performance bond and payment bond payable to White County in an amount sufficient to construct said commercial driveway, and which commercial driveway shall be from the access point of the State highway or County road classified as a minor arterial roadway and which shall proceed to any active waste treatment area upon the property in order to allow emergency vehicles of White County access to the active waste treatment areas. The current GDOT regulations for “driveway and encroachment control” are attached hereto as “Appendix 2” and incorporated into this ordinance by reference hereof, as the minimum standards that must be met regarding the commercial driveway.

b. The GDOT regulations adopted simultaneously with the ordinance labeled as “Appendix 2” shall be signed by the Board of Commissioners Chair, the County Clerk, dated as of the date of adoption and the County seal affixed thereto. The County Clerk shall maintain the GDOT regulations and revisions in the County Clerk’s office and shall be a public record, accessible and available to the public. The Board of Commissioners, in their discretion, from time to time, may adopt new GDOT regulations, and which also shall be a public record maintained by the County Clerk. The County Clerk shall provide copies of the GDOT regulations to the public in accordance with the Open Records Act policies of the County.

4) Facilities engaged in the land application of human waste and septage, or commercial waste, or both, have significant truck traffic to transport the human waste and septage, or commercial waste, or both to the active waste treatment area(s) of the facility. In order to prevent the volume of truck traffic from creating a traffic safety hazard as a part of any application for a special use permit and land compliance letter from White County, the applicant shall submit and provide a traffic impact study by a professional engineer to White County and which designates the estimated amount of truck traffic, a determination of ingress and egress routes for the trucks, and any necessary road improvements that will be needed due to the increased truck volume caused by the operations of the facility. The Director of Planning shall have the right to have the traffic impact study independently evaluated by a qualified expert, and require any road improvements recommended by the independent expert.

The applicant shall be responsible for constructing any road improvements determined to be needed by the traffic impact study at no cost to White County or post a performance bond and payment bond as provided hereinafter, prior to the issuance of a special use permit and land compliance letter by White County. The owners of the land, the operator of the facility or both shall fund and construct a left turn lane and a deceleration lane at the facility's entrance, which meets the standards imposed by the Georgia Department of Transportation (GDOT) for commercial driveways. The current GDOT regulations for "Driveway and Encroachment Control" are attached hereto as "Appendix 2" and incorporated into this ordinance by reference hereof, as the minimum standards that must be met regarding the deceleration lane (and also includes the minimum standards for the commercial driveway). Said improvements shall be constructed prior to the issuance of a special use permit and land compliance letter by White County or upon application for a special use permit and land compliance letter, applicant shall submit a payment bond and a performance bond payable to White County in a sufficient amount to allow construction of said improvements.

5) Facilities engaged in the land application of human waste and septage, or commercial waste, or both, shall meet the setback restrictions required by this ordinance. Any active waste treatment area of a facility engaged in the land application of human waste and septage, or commercial waste, or both, shall be one thousand (1,000) feet from any exterior property line of the parcel upon which the facility is located, and one thousand (1,000) feet from any stream, creek, or river lying upon the parcel upon which the facility is located or which adjoins the exterior property lines of the parcel upon which the facility is located, and shall be one thousand (1,000) feet from the geographical boundaries of any other governmental entity, and which shall be a condition of the special use permit and land compliance letter. Violation of this condition shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit. Applicant at the time of application shall submit a survey or site plan by a registered land surveyor that demonstrates that this condition can be met.

6) The owner shall provide a minimum 300 foot natural, undisturbed buffer between all active waste treatment areas and exterior property lines except for approved perpendicular access and utility crossings, and which shall be a condition of the special use permit and land compliance letter. Violation of this condition shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the

facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit.

7) The owner shall preserve the limits of any 100-year flood plain or a stream buffer of 300 feet, whichever is greater, as a natural, undisturbed area between all active waste treatment areas and flood plains, creeks, streams and rivers except for approved perpendicular access and utility crossings, and which shall be a condition of the special use permit and land compliance letter. Violation of this condition shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit.

8) All active waste treatment areas, which shall include but not be limited to the sprayfields, shall be fenced with a minimum six-foot high chain-link security fence, and which shall be a condition of the special use permit and land compliance letter. The fencing requirement, besides preventing vandalism, also prevents wild and domestic animals from entering into the treatment areas, and tracking waste to other areas within White County. Violation of this condition shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit. In lieu of the actual construction of the fences prior to the issuance of the special use permit and land compliance letter, a payment bond and a performance bond payable to White County, and in a sufficient amount to allow construction of said fences, may be posed with the application for a special use permit and land compliance letter.

9) Offensive odors from the operations of a facility engaged in the land application of human waste and septage, or commercial waste, or both, is a regular cause of citizen complaint, and is disruptive and injurious to the peace of the community. In order to minimize the adverse impacts of offensive odors from such facilities, the owner shall fully enclose all the active waste treatment areas with the exception of the sprayfields. All unloading, transfer, and loading areas related to the treatment of human waste and septage, or commercial waste, or both, within the active waste treatment area shall occur indoors, and the structure shall be equipped with a ventilator system and odor neutralizer system, sufficient to neutralize the offensive odors of human waste and septage, or commercial waste, or both. The enclosure of these areas shall be a condition of the special use permit

and land compliance letter. Violation of this condition shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit. In lieu of the actual construction of the enclosing structure or structures prior to the issuance of the special use permit and land compliance letter, a payment bond and performance bond payable to White County, and in a sufficient amount to allow construction of said enclosing structures, may be posted with the application for a special use permit and land compliance letter.

10) The system design and components of the system shall be subject to review and approval of the White County Director of Planning and Development only as to the system design and components being consistent with the system design and components submitted to and/or approved by the Environmental Protective Division (EPD) of the Georgia Department of Natural Resources in order to receive a permit from EPD. The verification that the system design and components is or has been as submitted to and/or approved by EPD is not to impose additional requirements regarding system design and components, but merely to verify that the system design and components is or as has been submitted to and/or approved by EPD. The White County Director of Planning and Development shall find that this condition of the special use permit and land compliance letter has been met upon a determination that the system design and components are the same as has been submitted to and/or approved by EPD. In lieu of the actual construction of the system prior to the issuance of the special use permit and land compliance letter, a payment bond and a performance bond payable to White County, and in a sufficient amount to allow construction of said system, may be posted with the application for a special use permit and land compliance letter. Compliance of the system with the EPD permit shall be a continuing condition of the special use permit and land compliance letter. Violation of this condition shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit.

11) Improper operation of facilities engaged in the land application of human waste and septage or commercial waste, or both, can result in toxic areas or brown fields. Therefore prior to the issuance of a special use permit and land compliance letter by White County, an applicant for said letter must demonstrate the existence of an adequate financial responsibility mechanism to demonstrate that sufficient funds will be available to meet specific environmental protection needs of said land application system site.

12) A special use permit and land compliance letter for the operation of a land application system for human waste and septage, or commercial waste, or both, shall not be granted unless the existence of an adequate financial responsibility mechanism has been provided to the White County Director of Planning and Development with the application. Such financial responsibility mechanism shall insure the satisfactory maintenance, closure, and post-closure care of such system site and the financial ability to carry out any corrective action, which is necessary to insure compliance with environmental standards after an incident, and which shall be a condition of the special use permit and land compliance letter. The Director of Planning shall evaluate the sufficiency of the amount of the financial responsibility mechanism by consultation with a professional engineering firm knowledgeable in the field of brownfield reclamation and considering the following factors:

- the type of land application system;
- the type of waste to be land applied to the site;
- the effectiveness of the system;
- the volume of waste;
- the size of the land application areas;
- the estimated cost to remove any toxic or hazardous material;
- and such other factors typically involved in brownfield reclamation.

Based upon these factors and the recommendation of the expert, the Director of Planning can recommend to the White County Board of Commissioners a higher amount for the financial responsibility mechanism which may be imposed as a condition of the special use permit and land compliance letter by the Board of Commissioners. Violation of this condition shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit.

13) As a part of the monitoring of the facility, and as a condition for the issuance of a special use permit and land compliance letter to a facility engaged in the land application of human waste and septage or commercial waste, or both, the applicant shall submit a pretesting plan that shall provide for the testing of waste accepted for treatment at the facility. As a condition of the special use permit and land application letter, the applicant will covenant and warrant that all waste shall be tested to determine that the waste proposed to be treated is waste that the facility is permitted by EPD to treat, and does not contain any hazardous or toxic materials that would disrupt the treatment process of the land application facility or which the facility is not permitted to treat. It shall be a continuing condition of the permit for the facility to test all waste, and the failure of the facility to test all waste shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-

compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit. Applicant as a part of the special use permit and land compliance letter application, shall covenant and warrant to provide copies of all test results, to a designated agent of White County on a monthly basis for all waste accepted for treatment by the facility, on the first day of the following month. Failure to provide the monthly reports shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit. Such testing is a part of the monitoring of the facility required by White County, and as allowed by O. C. G. A. § 12-5-30.3(d) and shall be in addition to any testing required by EPD.

14) As a condition of receipt of the special use permit and land compliance letter, the applicant shall agree to provide to White County a copy of all reports and documents provided by applicant to EPD, including permit applications, renewals of applications, correspondence with EPD regarding the facility in White County, tests and reports provided by applicant to EPD regarding said facility, and any and all records provided by applicant to EPD regarding said facility. The timely provision of this documentation by applicant/permittee to White County is a condition of the special use permit and land compliance letter. Violation of this condition shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit. The applicant/permittee shall provide to White County the documentation required by this subsection, at the same time that the applicant/permittee provides the reports and documentation to EPD.

15) The facility engaged in the land application of human waste and septage, or commercial waste, or both, under the rules and regulations of EPD is required to have a manifest of the waste transported to said facility. As a part of the monitoring of said facility, and as a continuing condition of the special use permit and land compliance letter by White County, applicant/permittee shall provide a copy of said manifest on a monthly basis to a designated agent of White County, with said manifest indicating the origination of the human waste and

septage, or commercial waste, or both, the transporter for said waste, the amount of waste received, what type of waste received, a cross index to the pretesting requirement of said waste, and shall be provided on a monthly basis to a designated agent of White County on the first day of the following month. The operator of the facility shall have a right to designate parts of the manifest that meet the definition of confidential proprietary information as such information, and White County shall redact said confidential information from any copies of the manifest made available to the general public as a public record. Violation of this condition shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit. The providing of the copies of the manifest by the applicant/permittee to White County shall be a part of the monitoring of the facility pursuant to O. C. G. A. § 12-5-30.3(d), and will be in addition to any manifest requirements imposed by EPD.

16) As a condition of the issuance of the special use permit and land compliance letter by White County, the applicant shall covenant and warrant that the facility engaged in the land application of human waste and septage, or commercial waste, or both, shall only operate during the days of Monday through Friday, and shall only operate during daylight hours. These operational days and hours shall be a condition of the special use permit and land compliance letter. Violation of this condition shall be due cause for suspension or revocation of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension or revocation process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that this condition has been violated shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations, in the event of a suspension or revocation of the permit. In the event that any permit issued by EPD specifically and expressly allows operations by the facility on Saturday and/or Sunday, and during night hours, then the provisions of the EPD permit shall control, but otherwise said facility shall be subject to this condition.

17)

a. All special use permits and land compliance letter applications for facilities engaging in the land application of human waste and septage, or commercial waste, or both shall be subject to a public hearing before the Board of Commissioners, which shall be advertised by White County, once each week for four consecutive weeks prior to the hearing in the legal organ of White County. The advertisement shall not be placed in the legal classified section of the newspaper, but shall instead be an ad prominently displayed within the newspaper. The applicant shall pay for the cost of advertisement with

payment received by the legal organ prior to the issuance of the special use permit and land compliance letter. The legal notice shall include the date, time and place of the public hearing, name of the applicant, proposed operator of the facility, location of the property, the present use of the property and that the applicant proposes to use the property for a facility engaged in the land application of human waste and septage, or commercial waste, or both.

The applicant shall place a sign containing the same information in a conspicuous location on the property visible by the public from a public way, not less than 15 days prior to the date of the hearing.

b. The Board of Commissioners shall conduct all public hearings in accordance with any procedures adopted by said body, and, in addition, shall be governed by the following procedures:

- 1.** The Chair, or other presiding officer should another person be designated by the Board to act as the presiding officer, shall open the hearing by stating the specific application being considered at the public hearing. At this time, the presiding officer may summarize the public hearing procedures.
- 2.** The Director of Planning or other agent of the County may present a description of the proposed application, any applicable background material, his/her recommendation, if any, regarding action on said application as appropriate, and the recommendation and reports of the Planning Department, if any, as appropriate.
- 3.** Persons who support the application shall comment first. The applicant may, upon recognition and upon statement of name and address, present and explain his application. The Board expects the applicant to attend the public hearing unless the applicant provides written notice of hardship prior to such hearing/meeting. A time limitation may be imposed at the discretion of the presiding officer, but no less than ten (10) minutes total (not per person) shall be provided for all of those speaking in support of the special use permit and land compliance letter.
- 4.** Persons who oppose the application of who have questions about the subject application will be asked to comment next. All interested parties after being recognized shall be afforded an opportunity to address the proposed application by standing before the Board of Commissioners and identifying their name, address and interest along with any comments on the proposed application. A time limitation may be imposed at the discretion of the presiding officer, but no less than ten (10) minutes total (not per person) shall be provided for all of those speaking against an application for a special use permit and land compliance letter.
- 5.** The applicant shall have an opportunity to answer any questions raised by the public, for summary remarks and rebuttal concerning the proposed application.

6. Upon the completion of any comments from interested parties and the applicant, the public hearing shall be completed and adjourned.

7. Having heard all of the public comments, the members of the Board of Commissioners may discuss the application among themselves. During this discussion period, the members of the Board may call on the applicant or other interested parties to clarify points made previously or to answer questions. Said applicant or interested parties may respond upon recognition. Once the public hearing has closed, the public may not ask additional questions. Once the public hearing is closed or a vote or other action is under consideration, unrecognized responses from the applicant or public shall result in the presiding officer ruling the participants out of order.

18)

a. Following the public hearing concerning a special use permit and a land compliance letter application for a facility engaging in the land application of human waste and septage, or commercial waste, or both, the Board of Commissioners shall grant or deny the application based upon whether the Board determines that the proposed facility is consistent with the policies and objectives of the Comprehensive Plan, particularly in relationship to the proposed site and surrounding area, and consistent with the factors set out by this ordinance, and can meet the conditions required by this ordinance. The Board shall consider the potential adverse impacts on the surrounding area, especially with regard to traffic, noise, odors, storm drainage, land values and compatibility of land use activities including whether the area contains property primarily used for residential purposes. The Board shall also consider the following criteria concerning the grant or denial of a special use permit and land compliance letter application for a facility engaging in the land application of human waste and septage, or commercial waste, or both:

1. The existing uses of nearby property and whether the proposed facility will adversely affect the existing use or usability of nearby property; and
2. The extent to which property values of the property upon which the facility is to be sited would be diminished by the conditions imposed by the special use permit and land compliance letter; and
3. The extent to which the destruction of the property values of the property upon which the facility is to be sited would promote the health, safety, morals or general welfare of the public; and
4. The relative gain to the public, as compared to the hardship imposed upon the individual property owner; and
5. The physical suitability of the subject property for the facility, and other possible uses as to which the property is suited; and

6. The length of time the property has been vacant, considered in the context of land development in the area near the property, and whether there are existing or changed conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the special use permit and land compliance letter application request; and

7. The development history and land use history of the subject property; and

8. The extent to which the proposed facility would result or could cause excessive or burdensome use of existing streets, transportation, facilities, utilities, police protection, fire protection, public health facilities, emergency medical services, or other public facilities; and

9. Whether the proposed facility is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adoptive plans; and

10. Whether the proposed facility is a use that is suitable in view of the use, development, and use of adjacent and nearby property; and

11. Whether the proposed site for the facility has a reasonable economic use currently; and

12. Whether the proposed facility would create an isolated commercial use unrelated to the surrounding uses; and

13. Whether the proposed facility is out of scale with the needs of the County as a whole or the immediate neighborhood; and

14. Such other factors as are deemed relevant by the Board of Commissioners before taking action on a particular application.

b. The Board of Commissioners shall adopt administrative policies regarding the conduct of the public hearing upon special use permit and land compliance letter applications but which do not conflict with the minimum requirements set by this ordinance.

c. In addition to the operational conditions imposed by Section 50-7(a)(16), the Board of Commissioners may impose such other conditions upon the facility as are necessary to protect the health, safety and welfare of area residents, which are consistent with state and federal regulations. The Board of Commissioners shall make its decision to grant to deny the application immediately following the public hearing, unless the hearing reveals a need for additional information before a decision can be made, and at which event the application shall be tabled until the next regular meeting of the Board and decided in that meeting.

In the event that the Board of Commissioners denies the application for a special use permit and land compliance letter or the applicant withdraws the application prior to the

vote, the same property cannot be considered for a special use permit and land compliance letter until at least twelve (12) months following the denial or withdrawal of the application.

19) The White County Planning Department shall issue written notification of the decision of the White County Board of Commissioners regarding an application for a special use permit and land compliance letter for a facility engaging in the land application of human waste and septage, or commercial waste, or both. The Planning Department shall issue the written notification to applicant within five business days of the decision of the White County Board of Commissioners. The decision of the White County Board of Commissioners shall be the final administrative action by White County, but an applicant shall have a right to appeal the decision of the White County Board of Commissioners to the White County Superior Court by way of a writ of certiorari granted by the Superior Court. (See also Section 50-12). Applicant shall follow the statutory process for the grant of a writ of certiorari by the Superior Court, including the provision of a bond that would cover the County's costs and expenses regarding the permit, including all of the costs to meet the conditions of the permit, as well as the County's attorney fees and other expenses in having to respond to the appeal. If the Board of Commissioners of White County grants the special use permit and compliance letter, then the White County Building Department may issue a building permit for the facility upon the condition that all conditions of the permit will be met, and all requirements of all other County ordinances and regulations have been met. The Building Department following its standard process, shall also issue a certificate of completion and a certificate of occupancy for the facility upon the requirements and conditions of the special permit and compliance letter being met, as well as all other County ordinances and regulations applicable to said facility being met.

20) The special use permit and land compliance letter shall be valid for one year, and be subject to renewal upon the anniversary date of the grant of the permit, so long as the facility complies with the conditions required by the permit. The infrastructure improvements required to be constructed by the conditions of the permit must be constructed within one year of the issuance of the notification of the grant of the permit by the White County Board of Commissioners. It is the responsibility of the applicant to apply for the building permits required by the White County Building Department for the facility and pursuant to the County ordinances and regulations. Failure to complete the construction of the infrastructure within the one year period will require the applicant to restart the process to receive a new special use permit and land compliance letter. Upon written application of a holder of a special use permit and land compliance letter submitted at least two months prior to the end of the one year construction period, and for good cause shown, the Board of Commissioners in their discretion, may grant an extension of time to complete the infrastructure improvements upon the further condition that the applicant pay the annual monitoring and regulatory fee of \$2,500.00 required by Section 50-7(a)(21) at the time of requesting the extension. Failure to construct the infrastructure improvements within the one-year period of time, unless extended, shall be due cause for the Board of Commissioners of White to not issue a renewal of the permit upon its anniversary date (and with the Board following the suspension or revocation process required by Section 50-10). A finding by the Board of Commissioners after the hearing process that the construction has not been

completed within the time allowed shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to require the holder of the permit to stop work and begin again the process to be issued a new special use permit and land compliance letter.

21) Applicant for a special use permit and land compliance letter, at the time of submission of the application, shall also submit an application fee for said permit and land compliance letter in the amount of Five Thousand and 00/100 (\$5,000.00) Dollars. Said fee is in part an application fee, but is also a regulatory fee and fee to offset the cost of monitoring the facility. In the event the Board of Commissioners denies the application, then the applicant shall receive a refund of Two Thousand Five Hundred and 00/100 (\$2,500.00) Dollars. Should the Board of Commissioners grant the application, then the Board shall retain the entire fee in order to offset the County's regulatory and monitoring costs of insuring compliance with this ordinance by the applicant. Applicant at the time of application shall also make any disclosures required by the Conflict of Interest and Zoning Actions Act, being O. C. G. A. § 36-67A-1, et seq. All local government officials required to make disclosure under said Act shall do so upon becoming aware of the application and the conflict of interest. The special use permit and land compliance letter shall only be valid for one year from the date of the grant of the application by the Board of Commissioners. One month prior to the annual anniversary date of the grant of the permit, and one month prior to each annual anniversary thereafter, the holder of the permit shall make a renewal application to receive another special use permit and land compliance letter valid for one year, and shall pay a regulatory and monitoring fee of \$2,500.00 to White County. The renewal applicant upon the renewal application shall covenant and warrant that all conditions of the special use permit and the land compliance letter have been met in the prior year, and will be met in the year for which a renewal application is submitted. Upon receipt of the regulatory and monitoring fee, and upon verification that the permit conditions were met during the prior year, White County shall issue a special permit and land compliance letter for the renewal year. Violation of any conditions of the permit shall be due cause for suspension, revocation, or denial of the renewal of the special use permit and land compliance letter after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension, revocation, or denial process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that any condition has been violated shall entitle the Board of Commissioners to deny a renewal application, and also entitle White County to injunctive and other relief to have the facility cease operations.

22) Besides the administrative relief of a stop work order, and the injunctive and other equitable relief allowed by this ordinance to White County, any person violating any provision of this ordinance, as such exists from time to time, shall be guilty of violating a duly adopted ordinance of White County, and upon conviction of such violation shall be punishable as a misdemeanor, pursuant to O. C. G. A. § 15-10-60 subject to a fine not to exceed \$1,000.00 and subject to imprisonment for no more than 60 days or both, except as otherwise provided by general law, or by subsequent amendment of O. C. G. A. § 15-10-60. O. C. G. A. § 15-10-60, et seq. shall govern the trial of any violation of this ordinance, and any violation of this ordinance may be tried upon citation as contemplated by O. C. G. A. §

15-10-63. Each day during which the violation, failure or refusal to comply continues, including failure or refusal to comply with permit conditions, shall constitute a separate violation.

23)

a. Facilities already engaging in the land application of human waste and septage, or commercial waste, or both, within the unincorporated limits of White County as of May 28, 2009 are exempt as to current operations from the land site provisions as to location and necessary infrastructure and being subsections (1), (2), (3), (4), (5), (6), (7), (8), (9), (16), (17), (18), (19), (20) and (21) of Section 50-7(a) as a legal non-conforming use, but shall be subject effective thirty (30) days after the passage of this amendment to the ordinance (being February 08, 2010) to those provisions requiring pretesting, the requirement regarding the providing of copies of manifests, providing copies of all reports and documents provided to EPD, verification that the system design and components are in accordance with the EPD permit, and the requirement regarding the financial responsibility mechanism and being subsections (10), (11), (12), (13), (14), (15), and (22) of Section 50-7(a). Any expansion of any active waste treatment area of a facility operating as a legal non-conforming use shall meet all requirements of this ordinance.

b. Facilities already engaged in the land application of human waste and septage, or commercial waste, or both, during the thirty (30) days following passage of this amendment to the ordinance (being effective February 08, 2010), shall apply to White County for a non-conforming use permit, upon the thirty-first (31st) day after passage of this ordinance amendment, and comply with subsections (10), (11), (12), (13), (14), and (15) of Section 50-7(a) of this ordinance, and the failure to comply shall entitle the Board of Commissioners through a proper County agent to issue a stop-work order at the facility, and shall also entitle White County to injunctive and other relief to either require compliance with the condition, or have the facility cease operations. As an additional remedy, White County shall also have the authority to cite the facility in accordance with subsection (22) of Section 50-7(a) of this ordinance. Upon application for a non-conforming use permit, the facility shall pay a regulatory and monitoring fee of \$2,500.00 to offset White County's cost in determining a reasonable financial mechanism amount and other costs of regulation and monitoring of said facility.

c. The applicant for a non-conforming use permit shall covenant and warrant upon his application that the applicant will meet the requirements of the subsections of Section 50-7(a) applicable to such facilities (being subsections (10), (11), (12), (13), (14), (15) and (22) of Section 50-7(a)), and these applicable conditions shall be continuing conditions of the permit. The non-conforming use permit shall only be valid for one year from the date of the grant of the application by the Board of Commissioners. One month prior to the annual anniversary date of the grant of the permit, and one month prior to each annual anniversary thereafter, the holder of the permit shall make a renewal application to receive another non-conforming use permit valid for one year, and shall pay a regulatory and monitoring fee of \$2,500.00 to White County. The renewal applicant upon the renewal application shall covenant and warrant that all conditions of the non-conforming

use permit have been met in the prior year, and will be met in the year for which a renewal application is submitted. Upon receipt of the regulatory and monitoring fee, and upon verification that the permit conditions were met during the prior year, White County shall issue a non-conforming use permit for the renewal year. Violation of any conditions of the permit shall be due cause for suspension, revocation, or denial of the renewal of the non-conforming use permit after prior written notice and a hearing before the Board of Commissioners regarding said non-compliance, and the suspension, revocation, or denial process shall comply with Section 50-10. A finding by the Board of Commissioners after the hearing process that any condition has been violated shall entitle the Board of Commissioners to deny a renewal application, and also entitle White County to injunctive and other relief to have the facility cease operations. Any facility operating under a non-conforming use permit that is destroyed or ceases operation for a month or more (excepting short term closures for normal maintenance of the facility), shall lose the right to continue operations as a non-conforming use and said facility must go through the special use permit and land compliance letter procedure and meet all conditions required by this ordinance at the time of application in order to begin operations again.

Section 50-8. False Information Application.

Any material omission from, or untrue or misleading information in an original or renewal application for a permit under this ordinance shall be due cause for the denial or refusal of a permit, or for the revocation of a permit previously granted.

Section 50-9. Privileged Nature of Permit.

All permits issued under this ordinance shall constitute a grant of privilege to carry on or operate a land application system covered by such permit at the location of the facility during the term of the permit, but subject to the terms and conditions imposed by this ordinance and other applicable ordinances of White County, and the applicable laws and regulations of the State of Georgia and of the United States of America applicable thereto.

Section 50-10. Suspension and Revocation; Grounds and Procedure.

a. Except as provided in Section 50-11, no permit, or renewal permit, which has been issued or which may be issued pursuant to this ordinance shall be suspended, revoked or denied (as to a renewal permit regarding the denial) except for due cause and after hearing and upon prior ten day written notice to the holder of the permit of the time, place and purpose of the hearing, and a statement of the charges upon which the hearing shall be held.

b. The term “due cause” for the purposes of this section shall include, but not be limited to:

1. Determination of a violation of any federal law, state law, federal regulation, state regulation, or county ordinance regarding the land application of human waste and septage, or commercial waste, or both, including but not limited to the conviction of, or the entering of a plea of guilty or nolo contendere, or the entering into of a consent order, by the permittee or any of the permittee’s employees or any person holding an interest in the permit as to a violation.

2. A determination of, including but not limited to conviction of, or the entering of a plea of guilty or nolo contendere, or the entering of a consent order, by the permittee or any of his employees or any person holding an interest in the permit for any violation of the facility's state permit regarding land application of human waste and septage, or commercial waste, or both.

3. Suspension, revocation, or the entering of a consent order regarding any state permit required as a condition for the operation of a land application system regarding human waste and septage, or commercial waste, or both.

4. Material falsification of any fact given in an application for a permit or renewal permit issued under this ordinance or bearing upon the permittee's qualification therefore. Any act which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a permit under this ordinance shall be deemed a violation of the requirement attempted to be circumvented.

5. Failure to meet or maintain any permit condition prescribed by this ordinance as a condition or qualification for holding a permit. Included within this subsection, but not limited thereto, is all permit conditions required by the ordinance, and which are continuing conditions for the validity of said permit, as well as payment of the regulatory and monitoring fee, and any other requirements mandated by the ordinances of White County applicable to the permit facility.

6. Any other factor known to or discovered by White County whereby it is objectively shown the permittee, any of the permittee's employees or any person holding an interest in a permit, has engaged in conduct at or involving the permittee facility, or has permitted conduct on the permitted facility that constitutes a violation of federal or state law, local ordinance or administrative regulations regarding the land application of human waste and septage, or commercial waste, or both. With respect to this subsection, it shall be rebuttably presumed that the violative act was done with the knowledge or consent of the permittee; provided, however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such permittee did not know, assist or aid in such occurrence, or in the exercise of full diligence that such permittee could not have discovered or prevented such activity.

c. Notice of the suspension or revocation of a permit, or the denial of a renewal permit, proceedings shall be served on the person named as permittee in the permit. Notice shall be in writing. The notice may be served personally or by certified mail, return receipt requested. If by mail, the notice shall be addressed to the permittee at its address as it appears in the records of White County. The burden shall be on the permittee to provide notice, in writing, of any change of address for service of notices and process. In the case of service by mail of any notice required by this ordinance, the service is complete as of the date indicated upon the return receipt or the date of actual personal service on permittee or permittee's managing agent.

d. The hearing shall be conducted by the Board of Commissioners of White County. The hearing shall be held no sooner than ten days from receipt of the notice of hearing, and must be

held within 60 days of receipt of the notice of hearing, as set by the White County Board of Commissioners.

e. Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The County Attorney or other designated agent shall present the County's case and bear the burden of proving by a preponderance of the evidence that due cause exists to suspend or revoke the permit, or to deny a renewal permit. At the hearing, the permittee shall have the right to represent itself or be represented by counsel, may cross-examine all witnesses offered by the County, and may call witnesses and present evidence in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the Board of Commissioner shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath or affirmation.

f. The Board of Commissioners shall make their final determination within ten days of the completion of the hearing. The decision shall be placed in writing and contain the Board of Commissioners' findings of fact, conclusions of law, and decision with related penalties, if any. Such penalty may include one or more of the following:

suspension of the permit for no more than 12 months,
revocation of the permit,
imposition of a probationary period not to exceed 12 months; and/or
a civil penalty not to exceed the amount allowed by ordinance or general state law.

g. The Board of Commissioners' decision shall be mailed by first class mail or hand delivered to the permittee and to the County attorney or other designated agent of the County within ten days of the close of the hearing.

h. A revocation of a permit may constitute due cause for the denial of any application for a renewal permit, or as due cause for the denial of an application for a new permit by the same permittee. Such a denial is subject to appeal by writ of certiorari in accordance with Section 50-12.

Section 50-11. Emergency Suspension.

a. The Board of Commissioners have the authority to emergency suspend a permit for a short-term period not to exceed ten days. The Board of Commissioners' decision shall be in writing, with the term of the emergency suspension and the reasons therefore stated, and shall be mailed and/or delivered to the permittee as provided in Section 50-10.

b. A short-term emergency suspension by the Board of Commissioners must be for an emergency cause. Emergency cause for the short-term suspension of a permit shall consist of a violation of a permit condition which puts the County and the health and safety of its citizens at such risk that an immediate suspension is necessary until a hearing as provided for in Section 50-10 can be held.

c. If the violation of the permit condition which necessitated the emergency suspension is not cured during the initial suspension, then the Board of Commissioners can extend the emergency suspension until the date of a hearing before the Board and following the procedures of Section 50-10.

Section 50-12. Writ of Certiorari for Appeal.

Any person adversely affected by a denial of an application for a permit, a suspension or revocation of a permit, or a denial of a renewal permit, by the Board of Commissioners and desiring to appeal further must do so by writ of certiorari directly to the Superior Court of White County within 30 days of such adverse decision. The decision of the Board of Commissioners is the final administrative decision for White County, and there is no other appeal to any other body other than by way of writ of certiorari directly to the Superior Court of White County.