

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representatives Flanagan, Jones and Wyrick**

A Bill

ACT 199 OF 1993
HOUSE BILL 1047

For An Act To Be Entitled

8 "AN ACT TO PROVIDE CITIES AND COUNTIES WITH THE AUTHORITY
9 TO ADOPT ZONING ORDINANCES FOR THE REGULATION OF
10 *COMMERCIAL* MEDICAL WASTE INCINERATORS; TO DECLARE AN
11 EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

14 **"AN ACT TO ALLOW CITIES AND COUNTIES TO ADOPT**
15 **ZONING ORDINANCES FOR THE REGULATION OF**
16 ***COMMERCIAL* MEDICAL WASTE INCINERATORS."**

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:**

20 **SECTION I. (a) Notwithstanding any and all laws regarding municipal planning and**
21 **zoning, all cities of the first and second class and all incorporated towns in Arkansas are**
22 **authorized to establish, by ordinance, zones to limit or to regulate the construction or**
23 **operation, or both, of *commercial* medical waste incinerators within the corporate limits of the**
24 **city or town.**

25 **(b) The *commercial* medical waste incinerator zoning ordinance shall be enforced**
26 **through the issuance or denial of building and use permits in accordance with the conditions**
27 **and terms of the limitations and regulations established by the ordinance.**

28 **(c) When the city or town council shall have laid off zones, by ordinance, to limit or to**
29 **regulate the construction or operation, or both, of *commercial* medical waste incinerators, it**
30 **shall be unlawful for anyone to construct or to operate a *commercial* medical waste incinerator**
31 **within a given zone except in accordance with any building and use permits issued for the**
32 **incinerator.**

33 **(d) Violations of any provision of an ordinance adopted as authorized by this act shall**
34 **be considered a misdemeanor. Each day's violation shall be considered a separate offense. The**
35 **city or town adopting the ordinance or any individual aggrieved by a violation of the ordinance**
36 **may request an injunction against any *commercial* medical waste incinerator or property**

1 owner who is in violation of the ordinance.

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3 **SECTION 2. (a)** Notwithstanding any and all laws regarding county planning and
4 zoning, all counties in Arkansas are authorized to establish, by ordinance, zones to limit or to
5 regulate the construction or operation, or both, of *commercial* medical waste incinerators
6 within their boundaries.

7 **(b)** The *commercial* medical waste incinerator zoning ordinance shall be enforced
8 through the issuance or denial of building and use permits in accordance with the conditions
9 and terms of the limitations and regulations established by the ordinance.

10 **(c)** When the county quorum court shall have laid off zones, by ordinance, to limit or to
11 regulate the construction or operation, or both, of *commercial* medical waste incinerators, it
12 shall be unlawful for anyone to construct or to operate a *commercial* medical waste incinerator
13 within a given zone except in accordance with any building and use permits issued for the
14 incinerator.

15 **(d)** Violations of any provision of an ordinance adopted as authorized by this act shall
16 be considered a misdemeanor. Each day's violation shall be considered a separate offense. The
17 county adopting the ordinance or any individual aggrieved by a violation of the ordinance may
18 request injunction against any *commercial* medical waste incinerator or property owner who is
19 in violation of the ordinance.

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21 **SECTION 3.** *"Commercial medical waste" means any medical waste transported*
22 *from a generator to an off-site facility for disposal and such off-site disposal facility is*
23 *engaged in medical waste disposal for profit.*

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25 **SECTION 4.** All provisions of this act of general and permanent nature are
26 amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision
27 Commission shall incorporate the same in the Code.

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29 **SECTION 5.** If any provisions of this act or the application thereof to any person or
30 circumstance is held invalid, the invalidity shall not affect other provisions or applications of
31 the act which can be given effect without the invalid provisions or application, and to this end
32 the provisions of this act are declared to be severable.

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34 **SECTION 6.** All laws and parts of laws in conflict with this act are hereby repealed.

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1 **SECTION 7. Emergency.** It is hereby found and determined by the Seventy-Ninth
2 **General Assembly of the State of Arkansas that the powers of local governments in Arkansas to**
3 **regulate the construction or operation of *commercial* medical waste incinerators are vague or**
4 **incomplete; that the un-regulated incineration of *commercial* medical waste poses a threat to**
5 **the health and safety of the citizens of Arkansas cities and counties; and therefore *commercial***
6 **medical waste incinerators should be made subject to the regulation by and control of local**
7 **governments in Arkansas. Therefore, in order to clearly establish the authority of local**
8 **governments to limit and regulate *commercial* medical waste incinerators, an emergency is**
9 **hereby declared to exist, and this act being necessary for the immediate preservation of the**
10 **public peace, health, and safety, shall be in full force and effect from and after its passage and**
11 **approval.**

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/s/Pat Flanagan, et al

APPROVED: 2/24/93