

MUNICIPAL WASTE FLOW CONTROL ORDINANCE
ORDINANCE NO. 93

WHEREAS, White Township, a municipality of Beaver County, Commonwealth of Pennsylvania and the County have determined that the appropriate legal mechanism for achieving the objectives of Section 102 and 303(a) and (e) of the Municipal Waste Planning, Recycling, and Waste Reduction Act, Act 101 of July 28, 1988, P.L. No. 528 (hereinafter referred to as "Act 101"), and for ensuring the delivery of [Municipality] generated municipal waste is the enactment of a Municipal Waste Flow Control Ordinance that provides for the disposition of municipal solid waste at selected disposal facilities which are listed in the Beaver County Solid Waste Management Plan; and

NOW, THEREFORE, it is hereby enacted and ordered by White Township, herinafter referred to as "Municipality" as follows:

SECTION 1. Definitions.

Unless the context clearly indicates otherwise, the following terms used in this Agreement shall have the following meanings:

- a) "Act 101" - The Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 528, No. 101, as now or hereafter amended.
- b) "Disposal" - The deposition, injection, dumping, spilling, leaking or placing of solid waste into or on the land or water in a manner that the solid waste or a constituent of the solid waste enters the environment, is emitted into the air or is discharged to the waters of the Commonwealth of Pennsylvania.
- c) "Landfill" - A facility using land for disposing of municipal waste. The facility includes land affected during the lifetime of operations including, but not limited to, areas where disposal or processing activities actually occur, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads and transportation and storage facilities. The term does not include construction/demolition waste landfills or a facility for the land application of sewage sludge.
- d) "Municipal Waste" - Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

- e) "Municipal Waste Landfill" - Any facility that is designed, operated or maintained for the disposal of municipal waste, whether or not such facility possesses a permit from the Department under the Solid Waste Management Act. The term shall not include any facility that is used exclusively for disposal of construction/demolition waste or sludge from sewage treatment plants or water supply treatment plants.
- f) "Municipality" - Any city, borough, incorporated town, township or home rule municipality located in the County.
- g) "Permit" - Permit No. issued by the Department for the operation of the Landfill by Operator.
- h) "Person" - Any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, Federal Government or agency, State institution or agency or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- i) "Recycling" - The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed or processed as municipal waste or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.
- j) "Solid Waste Management Act" - Act 97 of 1980, 35 P.S. {{6018.101 et seq., and the Department regulations promulgated thereunder.

SECTION 2. Licensing of Collectors and/or Transporters.

Not later than 120 days after the effective date of County Ordinance 082092 all persons collecting and/or transporting waste within the Municipality shall be required to obtain a County license pursuant to County Ordinance 082092.

SECTION 3. Disposal of Municipal Waste at Designated Municipal Waste Processing or Disposal Facility.

All municipal waste collectors and transporters shall deliver and dispose of all municipal waste generated within the Municipality, other than recyclable materials as designated in a municipality's recycling ordinance, at the site(s) designated by the Municipality. (Municipality) has contracted for waste

disposal capacity with Browning-Ferris Industries, with an office at 8100 S. State Line Rd., Lowellville, Ohio 44436 and Joseph J. Brunner, Inc. of RD #1, Zelienople, Pa. 16063, hereinafter referred to as the "Contracted Waste Disposal Facility, for a period of five (5) years with the option to renew contract for an additional five (5) years.

SECTION 4. Regulations.

All collectors and transporters shall comply with all County rules and regulations adopted by the County and this Municipality pursuant to Act 101, County Ordinance 082092 or this Ordinance.

SECTION 5. New Municipal Waste Processing or Disposal Facilities Prohibited;

Continuation of Existing Facilities.

(a) **Prohibition of Municipal Waste Processing and Disposal Facilities.** No person other than the County, the United States of America, the Commonwealth of Pennsylvania, or this Municipality, shall use or permit to be used any property owned or occupied by that person within the Municipality as a new municipal waste processing or disposal facility, for the processing or disposal of waste generated within Beaver County, without the express written approval of the County, and the Department of Environmental Resources.

(b) **Existing Facilities.** The prohibition set forth in Section 5(a) of this Ordinance shall not interfere with the operation of any existing facility provided:

(i) the owner/operator of the facility has an approved permit or has submitted a permit application to DER prior to April 9, 1990.

(ii) the facility does not accept municipal waste from any sources within the County other than those authorized by the facility's permit.

(c) Recycling. The prohibition set forth in Section 5(a) of this Ordinance shall not interfere with the operation of any program adopted by the Municipality for recycling.

SECTION 6. Unlawful Activity; Nuisance.

(a) Unlawful Conduct. It shall be unlawful for any person to:

(1) Violate, cause or assist in the violation of any provision of this Ordinance, County Ordinance No. 082092 or any rule, regulation or order promulgated by the County pursuant to County Ordinance No. 082082.

(2) or cause to be processed, treated, or disposed of municipal waste generated within this Municipality at a facility other than the Contracted Disposal Facility pursuant to the Municipality waste disposal agreement and the County Solid Waste Management Plan.

(3) collect or transport municipal waste generated within this Municipality without a valid County license:

(4) hinder, obstruct, prevent or interfere with this Municipality in the performance its duties under this Ordinance, Act 101 or any enforcement of this Ordinance;

(5) act in any matter that is contrary to Act 101, the County's Municipal Waste Management Plan, County Ordinance No. 082092 this Ordinance, or any County or Municipality rule or regulation promulgated pursuant to this Ordinance or County Ordinance No. 082092, or the terms of any licenses issued by the County.

(b) Public Nuisance. Any unlawful conduct set forth in Section 6(a) hereof shall constitute a public nuisance.

SECTION 7. Penalties. Any person, whether as principal, agent or employee, violating or assisting in the violation of any provision of this Ordinance or of any regulation adopted under this Ordinance shall, upon conviction, be guilty of a summary offense, and, be sentenced to pay a fine of not less than \$25.00, or more than \$300.00 and/or, to undergo imprisonment of not more than ninety (90) days. After notice, each day's neglect to comply with any provision of this chapter or any such regulation shall be deemed a separate offense and shall be subject in all respects to the same penalty as the first offense and separate proceedings may be instituted and separate penalties imposed for each such day's offense after the first conviction.

SECTION 8. Injunction; concurrent remedies.

(a) Restraining Violations. In addition to any other remedy provided in this Ordinance, the Municipality may institute a suit in equity if unlawful conduct or a public nuisance exists as defined in this Ordinance for an injunction to restrain a violation of this Ordinance, or rules, regulations, orders issued pursuant to this Ordinance or County Ordinance 082092. In addition to an injunction, the court may impose penalties as authorized by Section 7 hereof.

(b) Concurrent Remedies. The penalties and remedies prescribed by this Ordinance shall be deemed concurrent, the existence or exercise of any remedy shall not prevent the Municipality from exercising any other remedy provided by this Ordinance or otherwise provided at law or equity.

SECTION 9. Construction.

The terms and provisions of this Ordinance are to be liberally construed, so as to best achieve and effectuate the goals and purpose hereof. This Ordinance shall be construed in pari materia with the County Ordinance 082092 and Act 101.

SECTION 10. Severability.

The provisions of this Ordinance are severable. Any provision of this Ordinance or its application to any person or circumstance within a part of a Municipality is held invalid, said invalidity shall not affect any other provision or application of this ordinance which can be given effect without the invalid provisions or application of the Ordinance and any other part of the County.

SECTION 11. Repealer.

All provisions of any other ordinance which are inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 12. Effective Date.

This Ordinance shall take effect on April _____ 1, 1993. **ENACTED AND ORDAINED** an Ordinance this _____ 1st day of April, 1993.

WHITE TOWNSHIP

ATTEST:

Therese G. Pamer
Therese G. Pamer
Secretary

BY:

Thomas A. Bozic
Thomas A. Bozic
Chairman/President

George W. Zubrowski

Therese G. Pamer
Therese G. Pamer

SEAL: