

Appendix D

Ordinances and Regulations

Laws to ensure implementation of the plan

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COUNTY MUNICIPAL WASTE AND RECYCLING TRANSPORTERS ORDINANCE

ORDINANCE NO. 2013-5
COUNTY OF CUMBERLAND, PENNSYLVANIA

AN ORDINANCE OF THE COUNTY OF CUMBERLAND, PENNSYLVANIA, ESTABLISHING A HAULER REGISTRATION PROGRAM TO BE ADMINISTERED BY THE CUMBERLAND COUNTY DEPARTMENT OF RECYCLING AND WASTE MANAGEMENT FOR ALL PERSONS THAT COLLECT AND TRANSPORT MUNICIPAL WASTE AND/OR RECYCLABLES GENERATED FROM SOURCES LOCATED IN CUMBERLAND COUNTY; PROVIDING WASTE FLOW CONTROL REQUIREMENTS TO DIRECT WASTE TO DESIGNATED PROCESSING AND/OR DISPOSAL SITES; AND PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE.

WHEREAS, Act 101 of 1988, the Municipal Waste Planning, Recycling and Waste Reduction requires that counties accept responsibilities including the preparation and implementation of municipal waste management plans that provide for the processing and disposal of the municipal waste generated within their boundaries for at least ten years; and ensure maximum feasible waste reduction and recycling of municipal waste or source separated recyclable material; and

WHEREAS, it is the position of the Pennsylvania Department of Environmental Protection that counties can implement a waste flow control mechanism ensuring that the municipal waste generated within the county is disposed at the disposal sites designated in the county plan; and

WHEREAS, the 1991 Cumberland County Municipal Waste Management Plan ("Plan") and a non-substantial revision in 1997, 1999, 2000, 2001 and 2013 in accordance with the requirements of Section 501 of Act 101, and said Plan has been duly ratified by the municipalities of Cumberland County; and

WHEREAS, the County has the power and duty to adopt ordinances deemed necessary to implement this Plan and its revisions by the authority vested to the County pursuant to section 303 of Act 101, including requirements that all persons must register to collect and transport municipal waste subject to the Plan to a municipal waste processing and/or disposal facility designated by the County pursuant to Subsection 303(3) of Act 101.

NOW, THEREFORE, the Board of County Commissioners of Cumberland County hereby enacts and, ordains as follows:

SECTION 1- SHORT TITLE

This Ordinance shall be known and referred to as the "County Municipal Waste and Recycling Transporters Ordinance."

SECTION 2- DEFINITIONS

The following words and phrases as used in this Ordinance shall have the meaning ascribed to them herein, unless the context clearly indicates a different meaning:

Act 90 -- The Pennsylvania Waste Transportation Safety Program (HB 2044, Act 2002-90, June 29, 2002)

Act 97 - The Pennsylvania Solid Waste Management Act of 1980 (P.L. 380, No.97, July 7, 1980)

Act 101 - The Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (SB 528, Act 1988-101, July 28, 1988)

Commercial Establishment - Any establishment engaged in nonmanufacturing or nonprocessing business, including, but not limited to, stores, markets, offices, restaurants, shopping centers and theaters.

Construction/Demolition Waste - Waste resulting from the construction or demolition of buildings and other structures, including, but not limited to, wood, plaster, metals, asphaltic substances, bricks, block and unsegregated concrete. The term does not include the following if they are separate from other waste and are used as clean fill:

- (i) Uncontaminated soil, rock, stone, gravel, brick and block, concrete and used asphalt
- (ii) Waste from land clearing, grubbing and excavation, including trees, brush stumps and vegetated material

County - Cumberland County or any agency or department designated as the County's representative for the purposes of this Ordinance.

County Authorization – An authorization from Cumberland County issued to any transporter of municipal waste and recyclables that is not required by Act 90 to obtain Pennsylvania Waste Transportation Authorization.

County Registered Transporter - Any person, firm, partnership, corporation, or public agency who is engaged in the collection and/or transportation of municipal waste and/or recyclables currently registered with the County pursuant to this Ordinance.

Department or DEP-The Pennsylvania Department of Environmental Protection.

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 into the environment, is emitted into the air or is discharged to the waters of the Commonwealth of Pennsylvania.

Industrial Establishment - Any establishment engaged in manufacturing or production activities, including, but not limited to, factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

Institutional Establishment - Any establishment or facility engaged in services, including, but not limited to, hospitals, nursing homes, schools and universities.

Leaf Waste - Leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings.

Marketed - The transfer of ownership of recyclable materials for the purpose of recycling the materials into a new product or use.

Municipality - Any local municipal government within Cumberland County. A city, borough, township, county or an authority created by any of the foregoing.

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 under Act 97 from any municipal, commercial or institutional water supply treatment plant, wastewater treatment plant, or air pollution control facility. The term does not include any source-separated recyclable materials. For the purposes of this Ordinance, the term "Municipal Waste" shall include all types of municipal waste except infectious and chemotherapeutic waste and septage waste since all haulers of infectious and chemotherapeutic waste are licensed and/or regulated by the DEP under special regulations.

Municipal Waste Disposal or Processing Facility - A facility using land for disposing or processing 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, associated onsite or contiguous collection, transportation and storage facilities, closure and postclosure care and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or incidental to operation of the facility.

Municipal Waste 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, associated onsite and contiguous collection, transportation and storage facilities, closure and postclosure care and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or incidental to operation of the facility. The term does not include a construction/demolition waste landfill or a facility for the land application of sewage sludge.

Municipal Waste Management Plan ("Plan") - A comprehensive plan for an adequate municipal waste management system in accordance with Chapter 272, Subchapter C (relating to municipal waste planning).

Pennsylvania Waste Transportation Authorization – An authorization issued to municipal and residual waste transporters pursuant to Act 90.

Person - Any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, municipality, state institution and agency, or any other legal entity recognized by law as the subject of rights and duties. In any provisions of this Ordinance prescribing a fine, penalty or imprisonment, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

Plan Revision - A change that affects the contents, terms or conditions of a Department approved Plan under the Municipal Waste Planning, Recycling and Waste Reduction Act.

Processing - Any technology used for the purpose of reducing the volume or bulk of municipal or residual waste or any technology used to convert part or all of such materials for off-site reuse. Processing facilities include, but are not limited to, transfer stations, composting facilities and resource recovery facilities.

Recyclables – All metals, glass, paper, leaf waste, plastics and other materials, which would otherwise be disposed or processed as municipal waste. that are collected, separated, recovered for sale or reuse.

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.

Recycling Facility - A facility employing a technology that is a process that separates or classifies municipal waste and creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. The term does not include transfer facilities, municipal waste disposal or processing facility, composting facilities or resource recovery facilities.

Resource Recovery Facility -

(i) A processing facility that provides for the extraction and utilization of materials or energy from municipal waste.

(ii) The term includes a facility that mechanically extracts materials from municipal waste, a combustion facility that converts the organic fraction of municipal waste to usable energy and a chemical and biological process that converts municipal waste into a fuel product.

(iii) The term includes a facility for the combustion of municipal waste that is generated offsite, whether or not the facility is operated to recover energy.

(iv) The term includes land affected during the lifetime of operations, including, but not limited to, areas where processing activities actually occur, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite or contiguous collection, transportation and storage facilities, closure and postclosure care and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or incidental to operation of the facility.

(v) The term does not include:

(A) A composting facility.

(B) Methane gas extraction from a municipal waste landfill.

(C) A separation and collection center, drop-off point or collection center for recycling, or a source separation or collection center for composting leaf waste.

(D) A facility, including all units in the facility, with a total processing capacity of less than 50 tons per day.

Sewage Sludge - Liquid or solid sludges and other residues from a municipal sewage collection and treatment system; and liquid or solid sludges and other residues from septic and holding tank pumpings from commercial, institutional or residential establishments. The term includes materials derived from sewage sludge. The term does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of sewage sludge at a municipal sewage collection and treatment system, or grit, screenings and nonorganic objects from septic and holding tank pumpings.

Source Separated Recyclable Materials - Materials that are separated from municipal waste at the point of origin or generation for the purpose of recycling.

Street - A strip of land, including the entire right-of-way, intended for use as a means of vehicular and pedestrian circulation, includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

Transfer facility - A facility which receives and processes or temporarily stores municipal or residual waste at a location other than the generation site, and which facilitates the transportation or transfer of municipal or residual waste to a processing or disposal facility. The term includes a facility that uses a method or technology to convert part or all of the waste materials for offsite reuse. The term does not include a collecting or processing center that is only for source-separated recyclable materials, including clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper and plastics.

Transportation - The off-site removal of any municipal waste and/or recyclables at any time after generation.

Transporter - Any person, firm, partnership, corporation or public agency who is engaged in the collection and/or transportation of municipal waste and/or recyclables.

For the purposes of this ordinance, the singular shall include the plural and the masculine shall include the feminine and neuter.

SECTION 3-STANDARDS FOR COLLECTION AND TRANSPORTATION

1. All Transporters operating within the County must comply with the following minimum standards and regulations:
 - A. All trucks or other vehicles used for collection and transportation of municipal waste must comply with the requirements of Act 97, Act 90, and Act 101 as currently enacted or hereafter amended, and

Department regulations adopted pursuant to Act 97, Act 90 and Act 101, including the Title 25, Chapter 285, Subchapter B Regulations for the Collection and Transportation of Municipal Waste as currently worded or hereafter amended and any successor laws, regulations or Acts of the foregoing.

B. All collection and transportation vehicles conveying municipal waste and/or recyclables shall be operated and maintained in a manner that will prevent creation of a nuisance or a hazard to public health, safety and welfare.

C. All collection and transportation vehicles conveying putrescible municipal waste and/or recyclables shall be watertight and suitably enclosed to prevent leakage, roadside littering, attraction of vectors and the creation of odors and other nuisances or a hazard to public health, safety and welfare.

D. All collection and transportation vehicles conveying nonputrescible municipal waste and/or recyclables shall be capable of being enclosed or covered to prevent roadside litter, and other nuisances or a hazard to public health, safety and welfare.

E. All collection and or transportation vehicles conveying municipal waste and/or recyclables shall bear signs identifying the name and business address of the person or municipality, which utilize said vehicle in the collection and or transportation of municipal waste and/or recyclables and the specific type of municipal waste and/or recyclables transported by the vehicle. All such signs shall have lettering, which is at least six inches in height as required by Act 101.

2. All collection and transportation vehicles and equipment used by Transporters, shall be subject to inspection by the County or its authorized agents to determine compliance with the requirements of this section at any reasonable hour without prior notification.

SECTION 4 - REGISTRATION REQUIREMENTS

1. No person shall collect, remove, haul or transport any municipal waste and/or recyclables originating in Cumberland County through or upon public or private streets, alleys, highways, by-ways, avenues and any public or private easement through any of the various municipalities within Cumberland County without first registering with the County of Cumberland in accordance with the provisions of this Ordinance.
2. Any person who desires to collect, haul or transport municipal waste and/or recyclables within Cumberland County shall register for the first time at least thirty (30) days before beginning collection and/or transporting of municipal waste in the County.
3. Any person who desires to collect, haul or transport municipal waste and/or recyclables within Cumberland County shall submit a copy of its Pennsylvania Waste Transportation Authorization application and a copy of the Authorization to the County at the time of registration.

4. Any person who desires to collect, haul or transport municipal waste and/or recyclables within Cumberland County that is not required by Act 90 to obtain Pennsylvania Waste Transportation Authorization, must complete the full registration form. At the time of registration all information required by the registration form must be provided to obtain an authorization from the County. The County shall have a minimum period of thirty (30) calendar days to review any authorization application and take approval or denial action.
5. The County shall designate specific processing and disposal facilities where Transporters must transport and dispose of any municipal waste collected from sources within Cumberland County. No person shall dispose of municipal waste collected within Cumberland County, except at an approved municipal waste disposal or processing facility. The County shall not designate specific facilities for the processing and/or marketing of recyclables.
6. Registration and authorization fees may be assessed and charged to a Transporter by the County from time to time as permitted by law.
7. The registration form, which will be supplied by the County, shall state the processing and disposal facilities that the applicant intends to use for the purpose of disposal of Cumberland County Municipal Waste as well as the recycling facilities or end use facilities where Cumberland County recyclables are marketed and shall set forth the minimum information required to establish the applicant's qualifications to collect and transport municipal waste and/or recyclables, including, but not necessarily limited to:
 - a. Name together with actual mailing address of business location of the applicant.
 - b. Name and telephone number of contact person.
 - c. List of all collection vehicles to be used for the collection and transport of municipal waste and recyclables and the Pennsylvania Waste Transportation Authorization identification number for each.
 - d. List of collection vehicles to be used for the collection and transport of municipal waste and recyclables and to be covered under the County authorization rather than Pennsylvania Waste Transportation Authorization. The vehicle identification information and the vehicle license number for each vehicle. The company tax identification number; certificate(s) of insurance to present evidence that the applicant has valid liability, automobile and workmen's compensation insurance as required by state law.

- e. Type of municipal waste and/or recyclables collected and transported.
8. Any person who desires to collect, haul or transport municipal waste and/or recyclables within Cumberland County and who is currently registered shall submit a registration renewal application and if applicable an authorization renewal to the County at least sixty (60) days prior to the expiration date of their existing registration if renewal of the registration and authorization is desired.
9. No new registration or authorization renewal shall be approved and issued by the County to any person who fails to satisfy the standards and requirements of this Ordinance.
10. Written complaints filed by residents or County designated facilities may result in the delay or denial of authorization renewal.

SECTION 5- PROHIBITED ACTIVITIES

1. It shall be unlawful for any person to collect and/or transport municipal waste from any sources within Cumberland County in a manner that is not in accordance with the provisions of this Ordinance and the standards and requirements established in Chapter 285 of the DEP's Municipal Waste Management Regulations, (as amended) or any other applicable state law.
2. It shall be unlawful for any person to transport any municipal waste collected from sources located within Cumberland County to any processing and disposal facility other than the facilities that are designated disposal sites under the approved Cumberland County Act 101 Municipal Waste Management Plan. The following types of municipal waste and materials are exempt from this sub-section:
 - A. Transporters of regulated medical waste shall be exempted from use of the designated disposal facilities.
 - B. Transporters of sewage sludge shall be exempted from use of the designated disposal facilities if proof of an approved land application or composting facility is provided.
 - C. Transporters of septage shall be exempted from use of the designated disposal facilities but must provide proof of use of a DEP approved land application or permitted wastewater treatment facility for disposal.
 - D. Transporters of recyclables shall be exempted from use of the designated disposal facilities but must provide proof that the recyclables are taken to a recycling facility or marketed for end use.

SECTION 6- EXEMPTED ACTIVITIES

1. Municipalities and municipally owned vehicles participating in municipally sponsored clean-up days shall not be subject to the provisions of this ordinance with respect to standards for collection and transportation, registering, prohibited activities, reporting requirements or penalties during the time that such vehicles or municipalities are engaged in those municipally sponsored clean-up activities.
2. The transportation of municipal waste and/or recyclables collected and/or transported as part of a non-commercial activity occurring at an individual residence.

SECTION 7- REPORTING REQUIREMENTS

1. All Transporters shall promptly report any significant changes in the collection vehicles or equipment covered under the authorization and insurance coverage changes to the County.
2. All County registered Transporters shall maintain current, up-to-date records of the customers serviced within Cumberland County. Such records and customer list shall be subject to inspection and must be made available for view to the County or its authorized agents upon request.
3. Each Transporter shall prepare and submit on forms provided by the County, a typewritten or legibly printed report to the Cumberland County Recycling & Waste Department. The report shall be submitted annually before the last day of January of the next year. At a minimum, the following information shall be included in each report.
 - A. The total weight of each type of municipal waste and/or recyclables collected from all sources located in Cumberland County during each month of the reporting period;
 - B. The name of each processing or disposal facility and/or material recovery or end market the hauler used during the reporting period and the total weight of each type of municipal waste and/or recyclable that was delivered to each site during the reporting period;
 - C. The name of each municipality in Cumberland County in which the hauler collected municipal waste and/or recyclables from any source during the reporting period; and
 - D. A summary for each municipality of the total weight of each type of municipal waste and/or recyclables collected from each municipality during the reporting period;

SECTION 8- PENALTIES

1. Any person who violates any provision of this Ordinance shall, upon conviction, be guilty of a summary offense punishable, by a fine of not more than one thousand (\$1,000) dollars, or by imprisonment for a period of no more than ten (10) days, or both. Each incident shall be considered a separate and distinct offense punishable under the provisions of this Ordinance.
2. The County shall have the right at any time to suspend or revoke the County issued authorization of any County Registered Transporter for any of the following causes:
 - A. Falsification or misrepresentation of any statements in any authorization application;
 - B. Lapse or cancellation of any required insurance coverages;
 - C. Collection and/or transportation of any municipal waste and/or recyclables in a careless or negligent manner or any other manner that does not comply with the requirements of this Ordinance;
 - D. Transportation and disposal of any municipal waste collected from sources within Cumberland County at any site other than those processing or disposal facilities designated by the County; and
 - E. Failure to meet the specific reporting requirements outlined in this Ordinance; and
 - F. Violation of any part of this Ordinance, any other applicable county ordinances or other applicable Pennsylvania laws or regulations.

SECTION 9- INJUNCTIVE POWERS

The County or its designated agency may petition the Court of Common Pleas of Cumberland County for an injunction, either mandatory or prohibitive, in order to enforce any of the provisions of this Ordinance.

SECTION 10 -SEVERABILITY

In the event that any section, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, shall be declared illegal, invalid or unconstitutional for any reason, the remaining provisions of this Ordinance shall not be affected, impaired or invalidated by such action.

SECTION 11 -CONFLICT AND REPEAL

Any ordinances or any part of any ordinances, which conflict with this Ordinance are hereby repealed insofar as the same is specifically inconsistent with this Ordinance. Ordinance 97-1, the Waste Management and Recycling Ordinance of Cumberland County enacted April 28, 1997 and the Cumberland County Municipal Waste Management Hauler Regulations enacted May 12, 1997 are specifically repealed by this Ordinance.

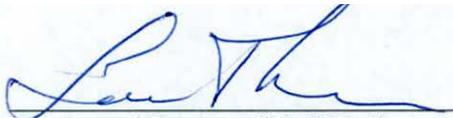
SECTION 12- EFFECTIVE DATE

This Ordinance shall take effect on November 1, 2013.

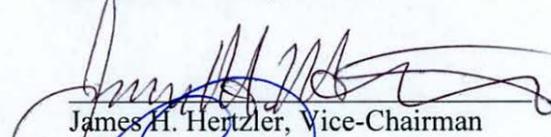
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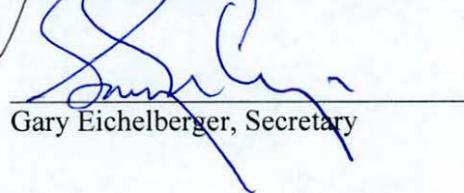
COUNTY OF CUMBERLAND
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