

MUNICIPAL WASTE MANAGEMENT AND RECYCLING ORDINANCE

WARREN COUNTY, PENNSYLVANIA

ORDINANCE NO. 1-2018

AN ORDINANCE OF WARREN COUNTY, PENNSYLVANIA, PROHIBITING THE ACCUMULATION, AND BURYING OF GARBAGE AND OTHER REFUSE MATERIALS UPON PUBLIC AND PRIVATE PROPERTY IN WARREN COUNTY, EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THIS ORDINANCE; REQUIRING THAT ALL GARBAGE, RUBBISH, AND OTHER REFUSE BE CONVEYED TO A TRANSPORTATION, PROCESSING OR DISPOSAL FACILITY DESIGNATED BY THE WARREN COUNTY MUNICIPAL WASTE MANAGEMENT PLAN; REGULATING THE CARE AND REMOVAL OF GARBAGE, RUBBISH, AND OTHER REFUSE MATERIALS; SPECIFYING THAT SOURCE SEPARATED RECYCLABLE MATERIALS CANNOT BE MIXED WITH MUNICIPAL SOLID WASTE FOR TRANSPORT AND DISPOSED; PROVIDING FOR REPORTING; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, the Board of County Commissioners have adopted for Warren County the 1990 Municipal Waste Management Plan and its subsequent revisions in 2004 and 2017 in accordance with the requirements of Section 501 of the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (Act 101), and said Plan has been duly ratified by the municipalities of Warren County; and

WHEREAS, the Board of Commissioners of the County (the "County Board") has designated the Warren County Department of Planning and Zoning as the agency to prepare the Warren County Municipal Waste Management Plan (the "Plan"); and

WHEREAS, the requirements of Act 101 will be best carried forth by adopting this Ordinance and implementing and carrying forth the Plan; and

WHEREAS, as result of adoption of the Plan and its subsequent revisions by the Board of Commissioners and approval by Pennsylvania DEP. this Ordinance represents a primary reporting vehicle for implementation of County responsibilities in conjunction with the continuing responsibilities of each municipality regarding storage, collection, processing and recycling of municipal solid waste subject to the limitations, requirements, and penalties as provided in Act 101:

WHEREAS, the County has adopted and approved the Plan;

WHEREAS this Ordinance shall repeal and replace Ordinance 2 of 1992.

NOW, THEREFORE, it is hereby enacted and ordained by the County of Warren as follows:

SECTION 1: DEFINITIONS

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

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

Act 101 - The Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act (SB528, Act 1988-101, July 1988) as now or hereafter amended.

Bulky Waste - Large items of solid waste including, but not limited to, appliances, furniture, large auto parts, trees, branches or stumps which may require special handling due to size, shape or weight.

Commercial Establishment - Any establishment engaged in non-manufacturing or non-processing business, including, but not limited to, stores, markets, office buildings, restaurants, shopping centers and theaters.

Construction/Demolition Waste - Solid 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 also includes dredging waste. 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, unused brick and block and concrete; (ii) waste from land clearing, grubbing and excavation, including trees, brush, stumps, and vegetative material.

Container - A device in which waste or recyclables are held for storage or transportation.

County - The County of Warren, Commonwealth of Pennsylvania or the Warren County Board of County Commissioners.

County Designated Facility - Any solid waste storage, collection, transfer, processing, or disposal facility or site (i) constructed, owned, or operated by or on behalf of the County or (ii) which may be utilized by County residents, Transporters, and commercial or institutional establishments pursuant to contracts between the facility owners and the County.

County Rules and Regulations - The Rules and Regulations adopted and revised from time to time by the County.

Department or DEP - The Pennsylvania Department of Environmental Protection (DEP).

Designated Facility - A disposal or processing facility which guarantees disposal capacity to Warren County through a contractual agreement.

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

Domestic Waste or Household Waste - Solid waste, comprised of garbage and rubbish, which normally originates in the residential private household or apartment house.

Existing Contract - Any contract of any Municipality, for the storage, collection, transportation, processing, or disposal of Regulated Municipal Waste generated or located within the County which (i) was legally entered into, (ii) when entered into was legally enforceable, and (iii) was in force prior to the adoption of the Plan pursuant to Act 101, excluding renewals of such contracts.

Garbage - Any solid waste derived from animal, grain, fruit, or vegetable matter that is capable of being decomposed by microorganisms with sufficient rapidity to cause such nuisances as odors, gases, or vectors.

Hauler or Private Collector - A Transporter.

Hazardous Waste - Any solid waste or combination of solid wastes, as defined in Act 97, which because of its quantity, concentration or physical, chemical or infectious characteristics may: (1) cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population; or (2) pose a substantial present or potential hazard

to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

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

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

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

Municipal Waste OR MSW - Garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial, or institutional establishments OR from community activities; and any sludge not meeting the definition of residual or hazardous waste from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. MSW includes, as per Commonwealth law, construction/demolition waste, municipal sludge, asbestos, infectious/chemotherapeutic waste and incinerator ash residue. The term does not include source separated recyclable materials or material approved by DEP for beneficial use.

Municipality - Any borough, township, or city within the County.

Occupied Dwelling - A permanent building or fixed mobile home that is currently being used on a regular or temporary basis for human habitation.

Permit - A permit issued by the Pennsylvania DEP, or a permit and/or license issued by a state and/or local regulatory agency, as required, to operate a municipal waste disposal, processing, or transfer facility.

Person - Any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, Federal Government or agency, State institution and agency, or any other legal entity which is recognized by law as the subject or rights and duties. In any provisions of this Ordinance which prescribe a fine, imprisonment or penalty, 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 or MSW Plan - The County Municipal Waste Management Plan approved pursuant to the 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 waste materials for off-site reuse. Processing facilities include, but are not limited to, transfer facilities, composting facilities, and resource recovery facilities.

Recycling - The collection, separation, recovery, and sale or reuse of metals, glass, paper, leaf waste, plastics, and/or 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 or reusable materials other than a fuel for the creation of energy.

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 **recycling facility** shall not mean transfer stations or landfills for solid waste, nor composting facilities or resource recovery facilities.

Refuse - All solid waste materials which are discarded as useless.

Regulated Waste – Municipal Waste generated within the County and regulated by the County pursuant to this Ordinance and the County Rules and Regulations.

Residual Waste - Any garbage, refuse, other discarded materials or other waste, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, mining and agricultural operations; and sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, if it is not hazardous.

Resource Recovery Facility - A processing facility that provides for the extraction and utilization of materials or energy from municipal waste that is generated off-site, including, but not limited to, a facility that mechanically extracts materials from municipal waste, a combustion facility that converts the organic fraction of municipal waste to usable energy, and any chemical and biological process that converts municipal waste into a fuel product.

Rubbish - All non-putrescible municipal waste except garbage and other decomposable matter. This category includes but is not limited to ashes, bedding, cardboard, cans, crockery, glass, paper, wood and yard cleanings.

Salvage/Salvaging - The controlled removal or recycling of material from a solid waste processing or disposal facility.

Scavenge/Scavenging - The unauthorized and uncontrolled removal of material or recyclables placed for collection or from a solid waste processing or disposal facility.

Sewage Sludge - Liquid or solid sludge and other residues from a municipal sewage collection and treatment system; and liquid or solid sludge 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 pumping.

Solid Waste - Any waste, including, but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous material.

Source Separated Recyclable Materials - Materials generated or collected within the County that (i) are separated from municipal waste at the point of origin by the generator in accordance with the Plan and (ii) are recycled. The term does not include material separated from source separated recyclable materials.

Storage - The containment of any waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any waste in excess of one year shall constitute disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

System - The overall solid waste management system, and every aspect thereof, owned or operated or utilized by or on behalf of the County in implementation of the Plan, including without limitation equipment, vehicles, offices, staff, transfer stations, landfills, and the like.

Transportation - The off-site removal of any solid waste 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.

Transfer Station - Any supplemental transportation facility used as an adjunct to waste collection route vehicles.

Unacceptable Waste - any material that by reason of its composition, characteristics or quality, is ineligible for disposal at a landfill pursuant to the provisions of the resource conservation and recovery act of 1976, 42 U.S.C. '2605(e), the Pennsylvania solid waste management act, 35 p.s. '6018.101, et seq., or other applicable federal, state or local law; or any other material that the county designated facility concludes would require special handling or present an endangerment to the landfill, the public health or safety, or the environment.

In this Ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION 2: Implementation

The County shall have the power and its duty shall be to implement the Plan and this Ordinance.

SECTION 3: Waste Flow Control

All Municipal Waste shall be transported to and delivered to a County Designated Facility. No Person shall transport or deliver, or cause to be transported or delivered, Municipal Waste to a Facility other than a County Designated Facility unless such transport or delivery is expressly provided for in the Plan and the County Rules and Regulations. Specifically exempted from this requirement are medical wastes, sewage sludge and waste deemed unacceptable by the County, subject to the following provisions:

- a) Medical Waste (infectious and/or chemotherapeutic wastes as defined by the Pennsylvania Department of Environmental Protection) shall be disposed of by an approved hospital incinerator or may be collected for disposal by a party duly licensed for such purposes by the Pennsylvania Department of Environmental Protection.
- b) Sewage Sludge: Sludge from sanitary sewage plants, water treatment plants, and related non-hazardous, non-residual sludge shall be:
 1. Disposed of at a County Designated Facility.
 2. Disposed of at a permitted sludge disposal storage facility or through permitted land application.
 3. Disposed of via an approved composting operation.
 4. Disposed of in any way which has the specific approval of the Pennsylvania Department of Environmental Protection.
- c) Any wastes which the County deems unacceptable shall be disposed of in any way which has the specific approval of the Pennsylvania Department of Environmental Protection.
- d) Materials collected for recycling may be delivered and sold to end users or recycling facilities.

Also exempted from this Ordinance are any wastes subject to a valid disposal agreement where such agreement predates the approved original County Plan and is valid per the requirement of Act 101.

SECTION 4: PROHIBITED ACTIVITIES

1. It shall be unlawful for any person to accumulate or permit to accumulate upon any public or private property within the County, any garbage, rubbish, bulky waste, or any other municipal or residual solid waste except in accordance with the provision of this Ordinance and the Department Rules and Regulations adopted pursuant to Act 97 and Act 101.
2. It shall be unlawful for any person to dispose of any solid waste in the County except in accordance with the provisions of this Ordinance and any Department Rules and Regulations adopted pursuant to Act 97 and Act 101.
3. It shall be unlawful for any person to scavenge any materials from any municipal waste or source separated recyclable materials that are stored or deposited for collection within the County without the prior written approval by the owner of the materials.
4. It shall be unlawful for any person to salvage or reclaim any solid wastes within the County except at an approved and permitted resource recovery facility under any Department Rules and Regulations adopted pursuant to Act 97 and Act 101.
5. It shall be unlawful for any person to throw, place or deposit, or cause or permit to be thrown, placed or deposited any solid waste in or upon any street, alley, sidewalk, body of water, public or private property within the County except as provided in this Ordinance.
6. It shall be unlawful for any person to mix source separated recyclable materials with solid waste in the same compartment of a vehicle for transport or to dispose of source separated recyclable material.

SECTION 5: STANDARDS AND REGULATIONS FOR COLLECTION AND TRANSPORTATION

1. All Transporters shall comply with the following:
 - a. All municipal waste collected within the County shall be conveyed by the collector or Transporter to a transfer station, processing facility, and/or disposal site designated by the County pursuant to the approved MSW Plan.
 - b. Any trucks or other vehicles used for the collection and transportation of municipal waste must comply with the requirements of Act 97 and Act 101 and any Department regulations adopted pursuant to Act 97 and Act 101, including the Title 25, Chapter 285, Subchapter B Regulations for the Collection and Transportation of Municipal Waste.
 - c. All solid waste shall be collected and transported so as to prevent public health hazards, safety hazards and nuisances.
 - d. All Transporters shall be responsible for maintaining a current list of customers serviced and records of the amounts and types of waste and recyclables collected within the County. Such records and customer lists shall be available for inspection and be provided to the County or its designated representatives upon request.
 - e. All Transporters shall be responsible for reporting, on forms provided by the Warren County Department of Planning and Zoning, the types and amounts of materials collected for recycling within Warren County and the facility to which they were delivered..

SECTION 6: WARREN COUNTY RULES AND REGULATIONS

- 1) In order to carry forth the power and duty to implement the Plan and this Ordinance, the County shall have the power in its discretion to adopt and enforce the County's Rules and Regulations.
- 2) County Rules and Regulations shall, at a minimum:
 - a) Identify the County Designated Facility(s) where persons and Transporters may dispose of regulated waste;
 - b) Specify such predisposal processing or separation or other requirements as are deemed necessary or convenient for the protection of public health and safety and the efficient, effective, reliable, and safe operation of the System;
 - c) Establish fees for use of the System; reporting mechanisms, and
 - d) Establish fees and penalties for violations of County Rules and Regulations, which fees and penalties may be established as determined by the County in an amount designed to protect the public health and safety and the System and to compensate the County for the costs, damages, and lost revenues related to any such violation. These fees and penalties for violations are in addition to those provided by Act 101.
- 3) County Rules and Regulations shall ensure the efficient, effective, reliable and safe operation of the System.

SECTION 7: DISPOSAL

All Municipal Waste generated within the County shall be processed or disposed by a Designated Facility in the Plan which through a contractual agreement has guaranteed disposal capacity to Warren County. All Designated Facilities guaranteeing capacity shall hold valid permits for such processing or disposal from the DEP or by an out of state facility holding similar state approval. No Person shall transport or deliver, or cause to be transported or delivered, Municipal Waste to any point other than a Designated Facility unless otherwise provided for by the County Plan or the County's Rules and Regulations. Certain municipal wastes are exempted from this requirement as set forth by Section 3 of this Ordinance.

- 1) Source Separated Recyclable Materials may not be disposed.

SECTION 8: EXISTING CONTRACTS

- 1) Nothing in this Ordinance shall be construed to impair the obligation of any Existing Contract.
- 2) No renewal or modification of any Existing Contract, and no new contract for the processing or disposal of Regulated Municipal Waste shall be entered into after the effective date of this Ordinance unless such renewal or modification or new contract shall have the prior written consent of the County and shall conform to the requirements of the Plan, this Ordinance and all County Rules and Regulations.

SECTION 9: UNLAWFUL AUTHORITY

It shall be unlawful for any Person to violate, or cause or permit or assist in the violation of, any provision of this Ordinance or of any provision of the County Rules and Regulations. All unlawful conduct shall also constitute a public nuisance.

SECTION 10: VIOLATION ENFORCEMENT

In the event that any person is found to be in violation of this Ordinance, the County may issue a

written notice of violation to the alleged violator. This notice shall be in writing and sent by certified mail with return receipt requested. The notice shall state the nature of the violations(s) and the necessary corrective actions required in detail. The person notified shall be provided a reasonable time period (stated in notice) to either correct the violation(s) or appeal.

SECTION 11: PENALTIES

Any Person violating any provision of this Ordinance, or any provision of County Rules and Regulations, shall, upon conviction thereof in a summary proceeding, be sentenced for each violation to pay:

- A. First Offense: A fine of not less than \$50 and not more than \$300 plus costs of prosecution.
- B. Second Offense: A fine of not less than \$100 and not more than \$300 plus costs of prosecution.
- C. Third and Subsequent Offenses: \$300 plus costs of prosecution.
- D. In default of the payment of such fine and costs, to undergo imprisonment for not more than ten (10) days

Each violation of any provision of this Ordinance or of any provision of the County Rules and Regulations, and each day that such a violation shall exist, shall constitute a separate violation and offense.

SECTION 12: ENFORCEMENT AND PROSECUTION

The County shall administer and enforce the provisions of this Ordinance and the provisions of the County Rules and Regulations.

SECTION 13: INJUNCTIVE RELIEF

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

SECTION 14: CONCURRENT REMEDIES

The penalties and remedies set forth in this Ordinance are in addition to, not in lieu of, any fines, penalties or remedies provided in the County Rules and Regulations. The existence or exercise of any remedy shall not prevent the County from exercising any other remedy (a) provided under (i) this Ordinance or (ii) the County Rules and Regulations, or (b) available at law or equity.

SECTION 15: NOTICE

At least thirty (30) days prior to the effective date of any County Rules and Regulations, the County shall publish in a newspaper of general circulation within the County a notice that a copy of proposed County Rules and Regulations are available for public review and comment.

SECTION 16: SEVERABILITY

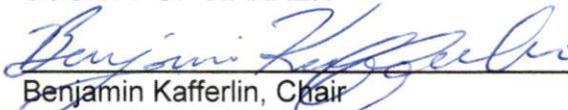
The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any Person or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision or application of this Ordinance.

SECTION 17: EFFECTIVE DATE

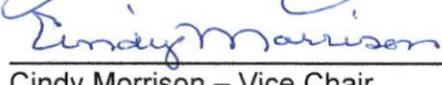
This Ordinance shall become effective thirty (30) days prior to the commencement date of the disposal capacity contracts with the County facilities.

DULY ENACTED AND ORDAINED at a public meeting of the Board of Commissioners of the County of Warren, Pennsylvania, held on the 27th day of the June 2018.

COUNTY OF WARREN



Benjamin Kafferlin, Chair

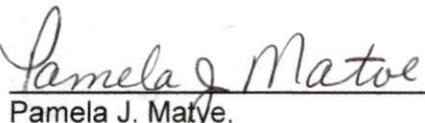


Cindy Morrison – Vice Chair



Jeff Eggleston, Secretary

Attest:



Pamela J. Matye,
Chief Clerk