

COUNTY OF PERRY
Commonwealth of Pennsylvania

Municipal Waste Management Ordinance
No. 2017

AN ORDINANCE
OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF PERRY,
COMMONWEALTH OF PENNSYLVANIA, AUTHORIZING AND
APPROVING THE 2015 SUBSTANTIAL REVISION TO PERRY
COUNTY'S MUNICIPAL SOLID WASTE MANAGEMENT PLAN AND
PROVIDING FOR THE COMPREHENSIVE MANAGEMENT, INCLUDING THE PROCESSING,
DISPOSAL AND RECYCLING, OF MUNICIPAL SOLID WASTE GENERATED OR COLLECTED
WITHIN THE COUNTY AND FOR MANDATORY CURBSIDE COLLECTION IN ALL
MUNICIPALITIES WITHIN THE COUNTY.

ENACTED: June 12, 2017

WHEREAS, The County of Perry (the 'County') is a county of the sixth class and a political subdivision of the Commonwealth (the "Commonwealth"); and

WHEREAS, Pursuant to the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101 (53 Pa.C.S. §4000.101 et seq.) ('Act 101') and, as applicable, the Solid Waste Management Act, Act of July 7, 1980, P.L. 380 (Act 97), and pursuant to authority set forth in The County Code, Act of August 9, 1955, P.L. 323 (the "County code"), the County prepared and adopted the Perry County Municipal Solid Waste Management Plan (the "2015 Plan") in 2015; and

WHEREAS, in 2014, the County provided notice to the Department that it would be proceeding with a substantial revision to the 2005 Plan to secure the proper and legal disposal of municipal solid waste for a period of ten (10) years; and seek municipal waste disposal capacity; and

WHEREAS, in 2014, the County initiated efforts to develop a substantial revision to the 2005 Plan ("2015 Plan"), which efforts included the reconvening of the Perry County Solid Waste Advisory Committee and the retaining of professional consultants, to assist the County in the preparation of the 2015 Plan; and

WHEREAS, The County had previously determined that maintaining county wide recycling sites was no longer economically feasible, and accordingly transferred recycling collection responsibilities and collection containers to willing and interested municipalities; and

WHEREAS, in 2014, The County applied for and was awarded a Planning Grant by the Department to prepare the 2015 Plan; and

WHEREAS, The County, acting through its Consultants, and having had meetings with its Advisory Committee, developed the 2015 Plan; and

WHEREAS, elimination of the legal ability to collect system fees from disposal facilities resulted in the County selecting a modified free market approach to allow haulers to choose any properly licensed landfill to dispose of municipal waste collected in Perry County; and

WHEREAS, The County is in support of providing technical assistance in the establishment of a "Key Card Access" system recycling location(s) as part of ongoing recycling initiatives for municipalities; and

WHEREAS, Municipalities participating in the key-card access drop off program, agree to adopt a municipal wide burn ban on recyclables; and

WHEREAS, The County has determined that requiring a County License be purchased by all persons that use, or cause, permit or assist in the use of, any vehicle or transportable container for storage, collection or transportation within the County of any Municipal Waste, and displayed on such vehicle or transportable container is no longer feasible; and

WHEREAS; An Interest Letter document was prepared by Barton & Loguidice (B&L), under contract with Perry County, seeking submissions from waste processing/ disposal facilities that meet minimum requirements and are willing to commit up to ten years of processing/ disposal capacity for acceptance of Perry County's municipal waste, as required by the PA Act 101 County Municipal Waste Planning Process. This document also solicited optional "free" public-service disposal capacity for illegal dump cleanups and similar activities, and asked Respondents to indicate their willingness to enter further discussions, outside of the interest letter process, regarding possible support for integrated waste management and recycling programs in Perry County; and

WHEREAS; Transfer stations handling municipal waste from Perry County were also asked in the Interest Letter to make a simplified response, committing to proper identification of transferred municipal waste by county of origin of the waste, agreeing to deliver municipal waste to approved processing/ disposal facilities in the County Plan, and agreeing to enter a contract with Perry County to confirm these points; and

WHEREAS; The above-referenced Interest Letter document was prepared and distributed to three (3) of the larger receivers of Perry County waste over the past five (5) years: Mountain View Reclamation Landfill, Cumberland County Landfill and the SRMC (formerly Harrisburg WTE). In addition, the Interest Letter was mailed to the Mifflin County Transfer Station, a known recipient of Perry County waste. Perry County was not required to publicly advertise the Interest Letter, as the Plan Update allows waste generated in Perry County to be taken to any duly licensed waste disposal facility; and

WHEREAS; A total of six (6) disposal facilities (Waste Management Laurel Highlands Landfill, Waste Management Mountain View Reclamation, Clinton County Solid Waste Authority, Advanced Disposal Cumberland County Landfill, LCSWMA Susquehanna Resource Management Complex and the Lancaster WTE Facility) and two (2) transfer stations submitted responses to the above-referenced Interest Letter document and agreed to discuss the integrated waste and recyclables management program support with Perry County; and

WHEREAS; The County approved the Municipal Waste Transfer Station Agreements with Advanced Disposal- Diller Transfer Station, and Mifflin County Solid Waste Authority, therefore including the two transfer stations in its Solid Waste Plan for municipal waste disposal in the County effective July 1, 2015 for a 5-year period; and

WHEREAS, The County prepared a draft of the 2015 Plan with the assistance of the Perry County Solid Waste Advisory Committee (the "Advisory Committee") and, on April 16, 2015, submitted the draft 2015 Plan to all of the municipalities located within the County (the "Municipalities") for their respective review and comments during a ninety (90) day comment period (the "Municipal Comment Period"); and

WHEREAS, On June 17, 2015 the County, and its Consultants, met with the Advisory Committee to brief it on the proposed 2015 Plan process prior to which meeting the County provided to the Advisory

Committee members a draft of the proposed 2015 Plan and thereafter, the County incorporated comments proposed by members of Advisory Committee into the final draft of the 2015 Plan; and

WHEREAS, The County has received no comments from any Municipality with respect to the 2015 Plan; and

WHEREAS, The County has complied with all applicable provisions of Act 101 and the County Code, and adopted the 2015 Municipal Waste Management Plan as of August 10, 2015; and

WHEREAS, The County provided the adopted 2015 Municipal Waste Management Plan to all of the municipalities located within the County (the "Municipalities") for their, respective, review and ratification during a ninety (90) day ratification period (the "Municipal Ratification Period"); and

WHEREAS, all Municipalities ratified the 2015 Waste Management Plan, eleven (11) by resolution and nineteen (19) by inaction; and

WHEREAS, Following the Municipal Comment Period and the Municipal Ratification Period, the County submitted the Plan, to the Department for review, comment and approval pursuant to Act 101, which approval was received by the County from the Department on May 9, 2016. The term of the 2015 Plan being a period of ten (10) years ; and

WHEREAS, the 2015 Plan restates and supplants in its entirety the 2005 Plan all in accordance with applicable provisions of Act 101; and

WHEREAS, The County is obligated by Act 101 to enact an ordinance to implement the 2015 Plan.

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

Section 1. Definitions.

The following terms when capitalized shall have the meanings set forth below when used in this Ordinance:

Act 101 - The Municipal Waste Planning, Recycling and Waste Reduction Act, Commonwealth Act of July 28, 1988, No. 101.53 P.S. Sec. 4000.101, et. Seq.

Commissioners – The Board of Commissioners as the governing body of the County of Perry, Commonwealth of Pennsylvania.

Contractor – An individual, firm, partnership, joint venture, corporation, association, municipality or authority selected to provide municipal waste disposal services under the Disposal Agreement with the County.

County – The County of Perry, Commonwealth of Pennsylvania.

County Rules and Regulations – Rules and Regulations adopted and amended from time to time by the County pursuant to the Plan and the Perry County Municipal Waste Management Ordinance.

Curbside Collection – The collection of Regulated Waste by a licensed Hauler at and from all properties within the County used for human habitation, including, but not limited to, residential, commercial, retail and industrial properties.

Department – Commonwealth of Pennsylvania, Department of Environmental Protection or equivalent agency in any other state.

Designated Facility – A Contractor's Disposal Facility selected by the County to receive Regulated Waste under the County Plan.

Disposal Agreement or Available Tonnage Processing/Disposal Agreement - The agreement between the County and the Contractor. Pursuant to the 2015 Letter of Interest, the disposal agreement between the County and a processing or disposal facility that enabled the Facility to demonstrate disposal capacity in the County Plan for processing or disposal.

Disposal Facility - A landfill, combustion facility or any other type of facility designed and permitted by the Department or a comparable governmental agency of another state for the receipt and disposal of municipal solid waste.

Hauler – Any person engaged in the collection, storage or transportation of Municipal Waste or Source Separated Recyclable Materials or Solid Waste, as such terms are defined in the Plan.

Key Card Access – A system designed for a permanent drop-off recycling facility that provides 24/7 service to residents who purchase a key card specifically for their municipal facility. Facilities are to be electronically gated for access and security purposes.

License – A license or permit issued by the Commonwealth of Pennsylvania authorizing (a) a Person to collect, store or transport Municipal Waste or (b) a vehicle to be used for collection, storage or transportation of Municipal Waste.

Manifest – The County's written record of each Regulated Waste delivery to Designated Facilities which is completed and signed by the Commonwealth's licensed haulers.

Modified Free Market Waste System – A system that allows Municipal Solid Waste from the County to be delivered to a contracted site or to any processing/ disposal site with a valid operating permit issued by the state in which the facility is located.

Municipal Collection Ordinance – An ordinance, in form and content to be in compliance with the County 2015 Plan, enacted by a Municipality within the County requiring all Regulated Waste generated within the boundaries of that Municipality be collected by a licensed Hauler in a manner sufficient to comply with the County's 2015 Plan, including, if no other collection and disposal method complies with the County 2015 Plan, Curbside Collection.

Municipal Recycling Program – A source separation and collection program for recycling Municipal Solid Waste, or a program for designed drop-off points or collection centers for recycling Municipal Solid Waste, that is operated by or on behalf of the County or Municipality. The term shall include any source separation and collection program for composting leaf waste that is operated by or on behalf of the County or Municipality.

Municipality – Any city, borough, incorporated town, township, and any municipal authority created by any of the foregoing, located within the County.

Municipal Solid Waste or "MSW" – Garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semi-solid or contained gaseous material resulting from 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.

Municipal Waste Combustor or "MWC" – Any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected incinerators (with or without heat recovery), modular incinerators (starved-air or excess-air), boilers (i.e., steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units and generates energy from the combustion in the form of steam and/or electricity. Municipal waste combustors do not include pyrolysis/combustion units located at a plastics/rubber recycling unit, cement kilns firing municipal solid waste, and internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

Operator – A person or municipality that operates a Disposal Facility.

Owner – The person or municipality who is the owner of record of a Disposal Facility or part of such a facility.

Permit – A permit, license or other type of authorization issued by the governing state agency to operate a Disposal Facility. The term includes a permit modification, permit reissuance and permit renewal.

Permit Area – The area of land and water within the boundaries of the Permit, which is designated on the Permit application maps as approved by the Department.

"Person" – Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, Municipality, municipal authority, governmental entity or agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. The term "Person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

Plan – The Perry County Municipal Waste Management Plan approved pursuant to Act 101, as amended and revised. Such term shall include, upon adoption and approval, the Plan Revision.

Plan Revision – The substantial revision to the Plan adopted by the County whereby the County established, inter alia, municipal waste disposal services and capacity for a period of ten (10) years.

Processing – Technology used for the purpose of reducing the volume or bulk of MSW or residual waste or technology used to convert part or all of the waste materials for energy production or offsite reuse.

Properly Permitted Facility – Any processing/ disposal site with a valid operating permit issued by the state in which the facility is located.

Regulated Waste – MSW generated or collected within the County and regulated by the County pursuant to its Rules and Regulations.

Residual Waste – Any garbage, refuse, other discarded material or other waste, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, mining and agricultural operations and any 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 facility that provides for the extraction and utilization of materials or energy from MSW that is generated off-site, including, but not limited to, a facility that mechanically extracts materials from MSW, a combustion facility that converts the organic fraction of MSW to usable energy and any chemical or biological process that converts MSW into a fuel product or other usable material. The term does

not include landfills or methane gas extraction from a MSW Landfill, nor any separation and collection center, drop-off point or collection center for recycling MSW, or any source separation or collection center for composting leaf waste.

"Solid Waste" – See Municipal Solid Waste, infra.

"Solid Waste Management System" or "System" – The system by which the County manages for the processing and disposal of Waste generated in the County pursuant to this Plan, including without limitation, equipment, vehicles, offices, staff, transfer stations, municipal waste combustors, landfills and the like.

Waste – A material whose original purpose has been completed and which is directed to a disposal facility or is otherwise disposed. The term does not include source-separated recyclable materials or material approved by the Department for beneficial use under Sec. 271.232 (relating to beneficial use).

Week or Weekly – The period of time commencing Sunday 12:01 a.m. and ending at midnight of the following Saturday.

Other terms defined in this Ordinance shall have the meaning herein given thereto. Terms defined in the section and otherwise in this Ordinance may be read where appropriate to include the singular or the plural of such defined term, as applicable.

Section 2. Amended and Restated Ordinance.

This ordinance shall constitute an amended and restated Municipal Waste Management Ordinance of the County, which replaces and supersedes Perry County, Pennsylvania Ordinance #1 of 2006.

Section 3. Waste Processing and Disposal.

- (a) Pursuant to its existing (10) ten-year Available Tonnage Processing/Disposal Agreement, all Regulated Waste generated in the County shall be collected and delivered to Properly Permitted Facilities in accordance to the modified free market system for processing and disposal.
- (b) No Person shall transport or deliver, or cause to be transported or delivered, Regulated Waste to a Facility other than to one of the Properly Permitted Disposal Facilities unless such transport or delivery is expressly provided for in the Plan and the County Rules and Regulations.

Section 4. Licensing.

- (a) No Person shall store, collect, or transport Municipal Waste generated within the County without a License (or otherwise authorized in writing by the County) duly issued by the Commonwealth pursuant to applicable law (vehicles with <17,000 GVW do not require a license), or as hereafter authorized by applicable law, a copy of said license shall be filed with the County prior to storing, collecting, or transporting Municipal Waste generated within the County.
- (b) No Person who generates, owns or possesses Municipal Waste generated within the County shall, by contract for collection services or otherwise, cause, permit or assist in the storage, collection, or transportation of any Municipal Waste generated within the County by any Person who does not hold a License for vehicles >17,000 GVW (or is not otherwise authorized in writing by the County).
- (c) Notwithstanding the provisions of Section 3(a) and 3(b) above, a Person may, without a License, store or transport to a Properly Permitted Facility, Regulated Waste which was generated at such Person's residence.

Section 5. Municipal Collection Ordinance.

- (a) Each Municipality shall enact a Municipal Collection Ordinance that shall be consistent in compliance with the 2015 Plan and further, that shall
 - (i) apply to all improved property suitable for human habitation, including residential properties in use as a residence or place for human habitation during a substantial part of each calendar year, business and commercial properties, and institutional and governmental properties.
 - (ii) require all Regulated Waste generated or brought within the municipal boundaries of that Municipality to be disposed of in a manner and in compliance with the 2015 Plan and with said Ordinance;
 - (iii) authorize such method(s) of collection of Regulated Waste that the Municipality shall deem appropriate; provided that, each method of collection must be in compliance with the 2015 Plan;
 - (iv) require all Regulated Waste generated or brought into the County, and therein collected, must be finally disposed in a Properly Permitted Facility.
- (b) Each Municipality shall enact a Municipal Collection Ordinance within three (3) years of adoption of the 2015 Plan by the County, which ordinance by its provisions shall be effective immediately, and further, upon enactment, each Municipality shall implement and enforce the provisions thereof.
- (c) Each Municipal Collection Ordinance shall contain such additional provisions as the County and the Department may hereafter deem necessary and proper in order for the County to attain its 2015 Plan goals.

Section 6. County Rules and Regulations.

- (a) In order to carry forth the power and duty to implement the Plan and this Ordinance, the County shall adopt and the County or such other County official as may be directed by the Commissioners shall enforce Rules and Regulations.
- (b) County Rules and Regulations shall, at a minimum:
 - (i) identify the Properly Permitted Facilities to be used for processing and disposal of Regulated Waste;
 - (ii) specify such 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;
- (d) County Rules and Regulations shall ensure the efficient, effective reliable and safe operation of the System.
- (e) All Municipalities in the County shall require that Hauler(s) collecting and transporting Regulated Waste therein comply with the most recent version of the County Plan and Act 90.

Section 7. Existing Contracts.

- (a) Nothing in this Ordinance shall be construed to impair the obligations of any Existing Contract, nor the effectiveness of existing municipal ordinances adopted to implement such Existing Contract.
- (b) 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 conform to the requirements of the Plan, this Ordinance and all County Rules and Regulations.

Section 8. Unauthorized Facilities.

No Disposal Facility, other than a duly-permitted facility (in its respective state), shall accept or dispose of Regulated Waste from the County unless such Disposal Facility is hereafter listed in the Plan and otherwise complies with all of the applicable provisions of Section 507(a)(2) of Act 101, and all other applicable federal, state and local laws and regulations.

Section 9. Unlawful Activity.

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 County Rules and Regulation. All unlawful conduct shall also constitute a public nuisance.

Section 10. Penalty.

Any Person violating any provision of this Ordinance, or any provision of the County Rules and Regulations, shall, upon conviction thereof in a summary proceeding, be sentenced for each violation to pay a fine of not more than \$1,000 and the costs of prosecution and restitution, if any, in default of the payment of such fine and costs, to undergo imprisonment for not more than ten 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 11. Injunctive Relief.

In addition to any other remedy provided in this Ordinance, the County may institute proceedings to restrain any violation of, or to require compliance with, this Ordinance, the Plan and/or the County Rules and Regulations.

Section 12. Concurrent Remedies.

The penalties and remedies set forth in this Ordinance and in addition, not in lieu of, any fines, penalties or remedies provided in the County Rules and Regulations or by federal, state and local laws 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 13. Severability.

The provisions of this Ordinance are severable. If any provisions 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 14. Effective Date.

This Ordinance shall become effective 10 days after enacted by the Commissioners of Perry County.

CERTIFICATE

I, the undersigned officer of the County of Perry, Commonwealth of Pennsylvania ("County"), hereby certify that: (a) attached to this Certificate is a true, correct and complete copy of an Ordinance (the "Ordinance") which was duly enacted at a meeting of the Board of Commissioners of the County on _____ at which a quorum was present and acting throughout, and which was at all times open to the public; (b) the Ordinance was duly recorded in the County's Ordinance Book, and a summary of the Ordinance was published as required by law in a newspaper of general circulation in the County; (c) the County met the advance notice requirements of Act No. 1986-84, as amended, by advertising the date of the meeting and posting a notice of the meeting at the public meeting place of the Board of Commissioners; (d) the total number of members of Commissioners is three; and (e) the vote upon the Ordinance was called and duly recorded upon the minutes and that the members voted in the following manner:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Brenda Benner	<u>✓</u>	_____	_____	_____
Paul Rudy	<u>✓</u>	_____	_____	_____
Stephen Naylor	<u>✓</u>	_____	_____	_____

WITNESS my hand and seal of the County this 12th day of June, 2017.

Kathy Burkholder
Chief Clerk

(Seal)