

ORDINANCE #81

FIRST READING - February 23, 1993
SECOND READING - March 9, 1993

AN ORDINANCE REGULATING THE DISPOSAL OF MUNICIPAL SOLID WASTE COLLECTED IN LACKAWANNA COUNTY AND PROVIDING FOR AUTHORIZATION AND LICENSING OF MUNICIPAL SOLID WASTE HAULERS.

WHEREAS, the Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 528, No. 101 ("Act 101") was enacted in the Commonwealth of Pennsylvania (the "Commonwealth") on July 28, 1988; and

WHEREAS, Act 101 gives to each county within the Commonwealth (a) the primary responsibility for planning for municipal solid waste management within its boundaries and (b) the primary power to control the flow of municipal waste generated within its boundaries; and

WHEREAS, Act 101 requires each county within the Commonwealth to prepare and obtain approval of a municipal solid waste management plan; and

WHEREAS, the County of Lackawanna has prepared, adopted and approved the Lackawanna County Municipal Waste Management Plan (the "Plan") pursuant to the requirements of Act 101; and

WHEREAS, the County of Lackawanna has submitted the Plan to the Pennsylvania Department of Environmental Resources (the "DER") for approval by the DER, as required by Act 101.

NOW THEREFORE, IT IS HEREBY ENACTED AND ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LACKAWANNA PENNSYLVANIA, AS FOLLOWS:

Section 1. Short Title

This Ordinance shall be known as the Lackawanna County Municipal Solid Waste Management and Licensing Ordinance.

Section 2. Definitions

The following terms, when used in this Ordinance, shall have the meanings set forth in this Section 2.

"Act 97" - The Solid Waste Management Act of the Commonwealth of Pennsylvania, Act of July 7, 1980, P.L. 380, No. 97, Pa. Stat. Ann. Tit. 35, Subsection 6018.101 et seq. (Purdons Supp. 1985).

"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.

"Applicant" - Any person desirous of being authorized as a "Hauler".

"Authority" - The Lackawanna County Solid Waste Management Authority.

"Commonwealth" - The Commonwealth of Pennsylvania.

"County" - The County of Lackawanna, Commonwealth of Pennsylvania.

"County Municipal Solid Waste Rules and Regulations" - The rules and regulations adopted pursuant hereto by Lackawanna County.

"DER" - The Department of Environmental Resources of the Commonwealth.

"Hauler" - A Person engaged in the collection and transportation of municipal solid waste or sewage generated within Lackawanna County.

"Municipality" - A municipality within Lackawanna County.

"Municipal Solid Waste" - Any waste generated or collected within Lackawanna County which is considered as garbage, refuse, or trash and includes office, shipping and lunchroom waste, and any solid, liquid, semi-solid or contained gaseous waste material which is not included under residual or hazardous waste definitions. Municipal solid waste results from the operations of residential, commercial, industrial, institutional establishments or community activities and includes sewage sludge and other sludge not meeting the definition of residual or hazardous waste.

"Person" - Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, or any other legal entity recognized by law as the subject of rights and duties. In connection with any provisions of this Ordinance prescribing a fine, penalty, imprisonment, denial or grant of any License, 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" - The Lackawanna County Municipal Solid Waste Management Plan adopted and approved pursuant to Act 101, as now or hereafter amended.

"Pre-Existing Contract" - Any contract for the collection, transportation, processing or disposal of Municipal Solid Waste generated within the County which was legally entered into before the earlier of the effective date of this Ordinance or the adoption of the Plan or whatever other date the Courts may determine to be the effective date that all municipal solid waste generated in the County shall be disposed of at the designated landfill.

Section 3. Waste Flow Control: Designated Facilities

All municipal solid waste generated in the County shall be disposed of at the Keystone Landfill located in Dunmore and Throop Boroughs, Lackawanna County unless the hauler produces a valid preexisting contract to haul solid waste to another site.

Section 4. Licenses

A. Any person in the business of hauling municipal solid waste from a point of generation in or origination in Lackawanna County to the designated landfill shall obtain such licenses from the Authority as are hereinafter set forth.

B. A separate license shall be required for:

- (1) The right to haul municipal waste;
- (2) Each vehicle in which municipal waste is hauled.

C. All licenses issued by the Authority pursuant to this section shall be permanently and openly displayed in accordance with the regulations adopted pursuant hereto.

Section 5. Lackawanna County Solid Waste Rules and Regulations

(a) In order to enable the County to exercise its power and duty to implement the Plan and this Ordinance, the Lackawanna County Commissioners' resolution adopted at a Public Meeting shall have the right and power to adopt, amend, revise, implement and enforce Rules and Regulations with respect to the storage, collection, transportation and disposal of Municipal Solid Waste generated within the County.

(b) No County Municipal Solid Waste Rules and Regulations adopted pursuant to this Ordinance shall be contrary to the provisions of this Ordinance, the Plan, Act 97, Act 101 or such other laws, regulations or requirements as may be enacted by the Commonwealth or the DER governing municipal waste planning, generation, collection, storage, transportation, processing or disposal.

(c) At least thirty (30) days prior to the effective date of any amendment or revision of the County Municipal Solid Waste Rules and Regulations, the County shall provide written notice of such amendment or revision to all persons then currently holding a license to collect, store, or transport or haul Municipal Waste and shall publish such notice in a newspaper of general circulation within the County and display the amended Rules and Regulations at designated sites throughout the County.

(d) The Lackawanna County Commissioners may temporarily or permanently amend the County Municipal Solid Waste Rules and Regulations without prior notice on an emergency basis to protect the public health and welfare, and/or in response to changes in State or Federal regulations. The Lackawanna County Commissioners shall follow-up such action with written notice to Haulers and Municipalities as soon as practicable after taking such action.

(e) The Lackawanna County Municipal Solid Waste Rules and Regulations shall, without limitation:

(f) govern the issuance, administration and revocation of Licenses, including without limitation, application procedures, fees, standards and conditions for Licenses, record keeping and reporting requirements, license display requirements, equipment and vehicles requirements, and any other matters deemed necessary or convenient by the County for the protection of public health and safety and welfare.

Section 6. Pre-Existing Contracts and Other Exclusions

(a) Nothing in this Ordinance shall be construed to interfere with, impair, or in any way modify the provisions of any Pre-Existing Contract.

Section 7. Unlawful Activity and Penalties

1. It shall be unlawful for any person to violate or to aid and abet in the violation of any provision of the Plan, this Ordinance or the County Municipal Solid Waste Rules and Regulations adopted pursuant thereto.
2. Any person violating or aiding or abetting in the violation of the Plan, this Ordinance or the County Municipal Solid Waste Rules and Regulations shall be guilty of a summary offense and shall upon conviction thereof be sentenced for each violation to pay a fine of not less than \$300.00 nor more than \$1,000.00 plus costs of prosecution and/or to undergo imprisonment for not more than 30 days. Each violation of any provision of this Ordinance or any provision of the County Municipal Solid Waste Rules and Regulations shall constitute a separate offense and each day that such a violation shall exist shall constitute a separate offense.
3. All such violations shall constitute a public nuisance.

Section 8. Withholding, Suspension and Revocation of Licenses

The County may refuse to issue, suspend or revoke licenses as follows:

1. for any hauler who is in violation of any of the provisions of the Plan this Ordinance, the County Solid Waste Rules and Regulations and/or state or federal law.
2. for any vehicle that does not comply with local, state or federal law.
3. any person who is aggrieved by a decision of the County regarding the issuance, suspension or revocation of a license may appeal said decision to the County or its designee in accordance with regulations pursuant hereto.

Section 9. Enforcement and Prosecution

The County shall have the right and power to designate the Authority or another entity to exercise the rights, and carry out responsibilities assigned to the County by virtue of this Ordinance, Act 97, Act 101 or The Plan.

Section 10. Injunctive Relief

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

Section 11. Concurrent Remedies

The existence or exercise of any remedy shall not prevent the County from exercising any other remedy (a) provided under this Ordinance or (b) available at law or equity.

Section 12. Severability and Repealer

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

Section 13. Effective Date

This Ordinance shall be effective immediately.

COUNTY OF LACKAWANNA

Ray A. Alberigi
RAY A. ALBERIGI

Joseph J. Corcoran
JOSEPH J. CORCORAN

John Senio
JOHN SENIO

ATTEST:

Gerald L. Stanvitch
GERALD L. STANVITCH,
ADMINISTRATIVE DIRECTOR

Approved as to form and legality:

Joseph A. O'Brien
JOSEPH A. O'BRIEN, ESQUIRE
COUNTY SOLICITOR