

**ORDINANCE NO. 89-4****YORK COUNTY WASTE FLOW CONTROL ORDINANCE**

WHEREAS, it is deemed by the Commissioners of York County, Commonwealth of Pennsylvania, to be in the best interest of the health, safety and welfare of the citizens of York County, that comprehensive planning of municipal waste management, collection and disposal be a public function controlled, implemented and managed by the County as provided herein; and

WHEREAS, the Commonwealth of Pennsylvania, pursuant to Section 102(b)(10) of the Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 101 (hereinafter referred to as "Act 101"), has shifted the primary responsibility for developing and implementing municipal waste management plans from municipalities to counties; and

WHEREAS, the York County Board of County Commissioners created the York County Solid Waste and Refuse Authority (hereinafter referred to as the "Authority"), as authorized by the Municipalities Authorities Act of 1945 (Act of 1945, P.L. 382, No. 164, hereinafter referred to as "Act 164"), for the purpose of implementing the York County Municipalities Solid Waste Management Plan Update which was approved pursuant to the provisions of the Pennsylvania Solid Waste Management Act, (Act of July 7, 1980, P.L. 380, No. 97, hereinafter referred to as "Act 97"); and

WHEREAS, the Authority, pursuant to, and consistent with, the said York County Municipalities Solid Waste Management Plan, entered into municipal agreements with certain York County municipalities for waste disposal services; and

WHEREAS, the Authority has issued revenue bonds for the acquisition and construction of the York County Resource Recovery Center (hereinafter referred to as the "Center"), and has entered into an Amended and Restated Construction and Service Agreement, dated as of July 16, 1987, (hereinafter referred to as the "Agreement"), with Westinghouse Electric Corporation, for the construction, operation and maintenance of the Center; and

WHEREAS, on May 30, 1989, the Pennsylvania Department of Environmental Resources notified the County that the York County Municipalities Solid Waste Management Plan Update has achieved all necessary requirements for final "grandfather" approval under Section 501(b) of Act 101; and

WHEREAS, pursuant to Section 303(e) of Act 101, the County is authorized to require that all municipal waste generated within its boundaries shall be processed or disposed at a designated processing or disposal facility that is contained in the approved York County Municipalities Solid Waste Management Plan; and

WHEREAS, the County and the Authority have entered into an agreement, dated as of July 12, 1989, delegating to the Authority certain powers and responsibilities with respect to municipal waste planning and implementation of the York County

Municipalities Solid Waste Management Plan, as authorized by Section 303(d) of Act 101;

NOW, THEREFORE BE IT ORDAINED, by the Board of Commissioners of the County of York, Pennsylvania, and it is hereby ordained by authority of the same, as follows:

Section 1. Definitions. The following terms shall have the following meanings in this Ordinance:

"Acceptable Waste" means that portion of Municipal Waste which can be processed by the Center, consistent with the Plan and any rules, regulations, resolutions or standards adopted by the Authority pursuant to this Ordinance and the Delegation Agreement, that has characteristics such as that collected and disposed of as part of normal collection of Municipal Waste in the County.

"Center" means the York County Resource Recovery Center and shall include the buildings and all equipment associated therewith which are located on Blackbridge Road, Manchester Township in the County.

"County" means the County of York, Commonwealth of Pennsylvania.

"Delegation Agreement" shall mean that specific agreement between the County and the Authority, dated as of July 12, 1989, defining and delegating certain of the County's municipal waste management and planning responsibilities to the Authority, as authorized by Act 101.

"Existing Contract" means any agreement or contract (1) fully executed and delivered and in effect, and (2) in reliance upon which, there has been a material change in position by any Person who is a party thereto, or beneficiary thereof, prior to the effective date of this Ordinance for the collection, disposal or transportation of Municipal Waste generated within the County.

"Municipal Waste" means 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 Act 97 from a municipal, commercial or institutional waste supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

"Municipality" means a county, city, borough, incorporated town, township or home rule municipality.

"Person" means any individual, partnership, corporation, association, institution, cooperative enterprise, Municipality, municipal authority, Federal Government or agency, Commonwealth institution or agency (including, but not limited to, the Department of General Services and the State Public School Building Authority), or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In any provisions of this Ordinance prescribing 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" means the York County Municipalities Solid Waste Management Plan Update approved pursuant to Act 97 and pursuant to Section 501(b) of Act 101, and any subsequent revisions, amendments or updates thereto which are approved pursuant to the provisions of Act 101.

"System" means the Municipal Waste management and disposal system for the County, including, without limitation, the Center, and any equipment, transfer stations, landfills, sludge disposal facilities, wastewater treatment facilities, recycling facilities, or composting facilities, whether publicly or privately owned or operated, which are, or will be, acquired, constructed and operated within the County and which are designated by the Authority pursuant to this Ordinance and the Delegation Agreement, and consistent with the Plan, as the specified processing, transfer or disposal site for any Municipal Waste, or any constituent thereof, which is generated or disposed of within the County.

"Unacceptable Waste" means that portion of Municipal Waste that is not Acceptable Waste and which is predominantly non-combustible and which cannot be processed by the Center, having such characteristics as specified in the Plan or in any rules, regulations, resolutions or standards adopted by the Authority, pursuant to this Ordinance and the Delegation Agreement.

Section 2. Operation by Licensed Collectors; Compliance; Fees.

(a) Licensing. Any Person engaged in the business of collecting, hauling or disposing of Municipal Waste generated in this County shall, prior to engaging in such business or activity, obtain a license for the specific purpose of conducting such business, which license shall be issued and administered by the County, as specified or required by the Plan. No Person who is required to be licensed by the County as specified by the Plan who is not duly licensed by the County to deliver Municipal Waste to the System for processing or disposal may collect, transport or dispose of Municipal Waste generated within the County.

(b) Compliance with Rules, Regulations and Ordinances. In carrying out activities relating to Municipal Waste collection, transportation or disposal within this County, all Municipal Waste collectors or transporters shall comply with all ordinances, resolutions, rules, regulations and standards pertaining to the collection, transportation and disposal of Municipal Waste as may hereinafter be enacted by this County and all resolutions, rules, regulations and standards adopted by the Authority pursuant to this Ordinance and the Delegation Agreement.

(c) The County shall establish, and shall collect, a license fee to be paid by any Person applying for such license in accordance with the requirements of this Section 2.

Section 3. Disposal at Designated Solid Waste Processing or Disposal Facilities.

(a) General. All Municipal Waste collectors and transporters shall deliver and dispose of all Municipal Waste, or any constituents thereof, generated within the County only at a transfer station or processing or disposal facility designated by this Ordinance, or designated by the Authority pursuant to this Ordinance and the Delegation Agreement, as such facility is reflected in the Plan.

(b) Processing of Acceptable Waste. Upon the effective date of this Ordinance, all collectors and transporters shall deliver and dispose of all Acceptable Waste collected within the County to the Hopewell Landfill operated by the Authority, or to an alternate disposal facility designated by the Authority, until the commercial operation date of the Center. On and after the commercial operation date of the Center, as certified by the Authority, all collectors and transporters shall deliver and dispose of all Acceptable Waste collected within the County to the Center for processing, or to an alternate disposal or processing facility designated by the Authority during interruptions of operation of the Center, if any. No Acceptable Waste generated and collected within the County shall be delivered to any other disposal or processing facility in violation of this Section 3, whether or not any such disposal or processing facility may be located within or without the County.

(c) Disposal of Unacceptable Waste. All collectors and transporters operating in the County shall deliver and dispose of all Unacceptable Waste generated and collected within the County to the Hopewell Landfill operated by the Authority for disposal, until such time as the Authority shall direct that such Unacceptable Waste be delivered to an alternative disposal site(s) consistent with the Plan.

(d) Recycling. This Ordinance shall not be construed to require that Municipal Waste or source-separated recyclable materials that would otherwise be recycled pursuant to the requirements of Act 101 be delivered to the Center, the Hopewell Landfill or any other Municipal Waste processing or disposal facility unless such Municipal Waste or recyclable materials are to be recycled at any recycling facility in accordance with the Plan or any municipal recycling program pursuant to Section 1501 of Act 101.

(e) Commercial Disposal Facilities. This Ordinance shall not be construed to require that Municipal Waste generated by any commercial operation in the County which is exclusively disposed of by such commercial operation at an on-site captive commercial disposal facility, duly permitted to dispose of such Municipal Waste, be delivered to any other processing or disposal facility.

Section 4. Implementation and Regulation.

(a) Authority Rules. The collection, transportation and disposal of Municipal Waste generated within the County shall be

subject to such further rules, regulations, resolutions and standards as may from time to time be adopted by the Authority pursuant to this Ordinance and the Delegation Agreement in furtherance of implementation and enforcement of the Plan.

(b) Consistency of Rules, Regulations, Resolutions and Standards with Ordinance and Other Laws. No rules, regulations, resolutions or standards adopted by the Authority pursuant to applicable provisions of Commonwealth law and as authorized by the Delegation Agreement and this Ordinance, shall be contrary to or less stringent than the provisions of this Ordinance, the Plan, Act 97, Act 101 or any regulations adopted thereunder.

Section 5. Existing Contracts; Facilities.

(a) Non-interference with Existing Contracts. Nothing contained in this Ordinance shall be construed to interfere with or in any way modify the provisions of any Existing Contract.

(b) New Contracts and Renewals of Existing Contracts. No renewal of any Existing Contract upon the expiration of the original term thereof and no new contract for Municipal Waste collection, transportation, processing or disposal shall be entered into after the effective date of this Ordinance, unless such renewal or such contract shall conform to the requirements of the Plan, this Ordinance, and any rules, regulations, resolutions or standards promulgated by the Authority pursuant to this Ordinance and the Delegation Agreement, and shall further conform to any of the terms and conditions of licenses issued by

the County pursuant to this Ordinance, as specified or required by the Plan.

(c) No Person shall use or permit to be used any property owned or occupied by that Person within the County as a Municipal Waste processing or disposal facility, either for Municipal Waste generated within the County or elsewhere, unless such use is authorized pursuant to the provisions of Act 101, and is consistent with, and is reflected in, the Plan.

Section 6. Unlawful Activities: Public Nuisance. It shall be unlawful for any Person to:

(a) violate, cause or assist in the violation of any provision of this Ordinance, or violate, cause or assist in the violation of any rule, regulation, resolution or standard promulgated by the Authority pursuant to this Ordinance and the Delegation Agreement, or any rule, regulation, resolution or standard promulgated by the County consistent with this Ordinance and the provisions of Act 101 and the Plan;

(b) process, treat, transfer or dispose of, or cause to be processed, treated, transferred or disposed of, Municipal Waste, or any constituent thereof, which is collected within the County and which is subject to the provisions of this Ordinance, at any facility other than a processing or disposal facility which is consistent with, and is reflected in, the Plan as the designated processing, transfer, treatment or disposal facility for such Municipal Waste, or constituent thereof;

(c) collect Municipal Waste, or any constituent thereof, generated within the County without a valid license for collection issued by the County as specified or required by the Plan; or

(d) hinder, obstruct, prevent or interfere with, the County, the Authority, or any of their personnel, agents or employees in the performance of any duty under this Ordinance, or in the performance of any duty of the Authority under the Delegation Agreement or in the performance of any duty in furtherance of the implementation and enforcement by the County or the Authority of this Ordinance or of the Plan.

Section 7. Penalties.

(a) Any Person who engages in unlawful conduct as defined in this Ordinance shall, upon conviction thereof, in a summary proceeding before a district justice, be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000) and not less than Twenty-Five Dollars (\$25), to be paid to the use of the County, with costs of prosecution, or to be imprisoned in the County jail for not more than ten (10) days, or both.

(b) Any Person who engages in unlawful conduct as defined in this Ordinance shall, in accordance with applicable provisions of the laws of the Commonwealth, be subject to the provisions of Act 101, Chapter 17, as such provisions with respect to enforcement and remedies may apply to any such unlawful conduct.

Section 8. Revocation of License. Upon finding that any Person has engaged in unlawful conduct as defined in Section 6 of

this Ordinance, the County may, (a) revoke any license issued by the County to that Person and (b) deny any subsequent application by that Person or any Person who or which was, or who or which is, affiliated with, related to, or controlled by, any Person who was, at the time of commitment of such unlawful conduct, or any time thereafter, an officer, director, shareholder, partner, or joint venturer of, under contract with, employed by, or related or affiliated in any manner with such Person, for issuance of the license required by Section 2 hereof.

Section 9. Injunctions; Concurrent Remedies.

(a) Restraining Violations. In addition to any other remedy provided in this Ordinance, the County or the Authority may institute a suit in equity where unlawful conduct or a public nuisance exists as defined in this Ordinance for an injunction to restrain a violation of this Ordinance or of any rules, regulations, resolutions or standards promulgated or issued by the County pursuant to this Ordinance, or issued by the Authority pursuant to this Ordinance and the Delegation Agreement.

(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 County or the Authority from exercising any other remedy provided by this Ordinance or otherwise provided at law or equity.

Section 10. Construction. The terms and provisions of this Ordinance are to be liberally construed, so as best to achieve

and to effectuate the goals and purpose hereof. This Ordinance shall be construed in pari materia with Act 97 and Act 101.

Section 11. Municipal Ordinances. Pursuant to Section 304(d) of Act 101, the provisions of this Ordinance shall supersede the provisions of any municipal ordinance to the extent that the provisions of any such municipal ordinance are inconsistent with, or conflict with, the provisions of this Ordinance, except as otherwise provided by Section 502(o) of Act 101.

Section 12. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the York County Board of Commissioners that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof had not been included herein.

Section 13. Effective Date. This Ordinance shall become effective within 15 days of its adoption by the Board of Commissioners of York County.

Enacted and ordained this 30th day of August, 1989.

COUNTY OF YORK

BY: Louise B. Hovri

BY: Ronald E. F. F. Lee

BY: George [unclear]

Attest:

Asst. Mickey Frey  
Chief Clerk