

**No. 2021-01
ORDINANCE**

***An Ordinance of the County of Luzerne, Pennsylvania, Designating Processing
and/or Disposal Facilities; Providing Waste Flow Control Requirements to Direct
Municipal Waste to Designated Processing and/or Disposal Facilities and
Providing Penalties for Violation of this Ordinance***

WHEREAS, the Luzerne County Council have adopted and approved the Municipal Waste Management Plan (the "Plan") for Luzerne County in accordance with the requirements of Section 501 of the Pennsylvania Municipal Waste Planning, Recycling and Waste Reductions Act of 1988 (Act 101), and said Plan has been duly ratified by the municipalities in the County; and

WHEREAS, it is the intent of the county to implement the Plan; and

WHEREAS, the County has the power and duty to adopt any such ordinances deemed necessary to implement this plan by the authority vested to the County pursuant to Section 303 of Act 101, including requirements that all municipal wastes generated within its boundaries shall be processed or disposed of at a designated solid waste processing or disposal facility (the "Facilities") that is contained in the approved Plan as designated by the County Pursuant to Sub-Section 303(e) of Act 101; and

WHEREAS, the County has entered and/or intends to enter into Disposal Agreements with duly permitted disposal facilities to accept the County Municipal Waste for a period of ten (10) years; and

WHEREAS, the County desires that the Municipal Waste generated within its jurisdiction be disposed of at the Facilities.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by Luzerne County Council as follows:

SECTION 1 - SHORT TITLE

This Ordinance shall be known and referred to as the "Luzerne County Municipal Waste Management 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 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 (P.L. 556, No. 101, July 28, 1988).

Collector or Waste Hauler -- shall mean any person, firm, partnership, corporation or public agency who is engaged in the collection and/or transportation of Municipal Waste.

Commercial Establishment -- shall mean any establishment engaged in non-manufacturing or non-processing business, including but not limited to, stores, markets, offices, restaurants, shopping centers and theaters.

Construction/Demolition Waste - Any waste material resulting from the removal or demolition of an existing residential, commercial or industrial space and/or building except large concrete blocks and telephone poles.

County -- shall mean the Luzerne County Council or its designee.

Department - The Pennsylvania Department of Environmental Protection of the Commonwealth, and its authorized representatives.

Hauler - Any person, firm, partnership, corporation or public agency engaged in the collection and/or transportation of Municipal Waste. For purposes of this Ordinance, the term "Hauler" shall not include the following: (i) any farmer carrying out the normal activities of his or her farming operation, including composting and spreading of manure or other farm-produced agricultural waste.

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

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

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

Municipality -- shall mean any local municipal government within Luzerne County.

Municipal Solid Waste (MSW) - shall mean any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid, or contained gaseous material resulting from the operation of residential, municipal, commercial, or institutional establishments and from community activities; and sludge not meeting the definition of residual or hazardous waste under the Solid Waste Management Plan from a municipal, commercial or institutional water supply treatment plant, waste water treatment plant or air pollution control facility. The term does not include any source-separated recyclable materials or radioactive waste.

Municipal Waste Landfill -- Any facility that is designed, operated and maintained for the disposal of Municipal Waste and permitted by the PADEP for such purposes.

PADEP -- shall mean the Pennsylvania Department of Environmental Protection.

PADEP Licensed Collector or Waste Hauler -- shall mean any Municipal Waste collector or hauler possessing a current Pennsylvania State License issued pursuant to Act 90.

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

Processing -- means 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, resource recovery facilities, and septage treatment facilities.

Radioactive Waste - Any material which contains either high-level or low-level radioactive waste, or spent nuclear fuel, or source, special nuclear, or by-produce material, or mill tailings, or naturally occurring, or accelerator-produced radioactive material as defined in either the Atomic Energy Act of 1954 as amended, or in the Pennsylvania Low Level Radioactive Waste Disposal Act of 1988, whichever is more inclusive. Radioactive waste also includes any radioactive material that either the U.S. Nuclear Regulatory Commission or DEP classified as radioactive waste as of January 1, 1990.

Recyclables - The kind and weight or volume of materials that could be recycled, giving consideration, at a minimum, to the following materials: clear glass, colored glass, aluminum, steel and bimetallic cans, high grade office paper, newsprint, corrugated paper, plastics and leaf waste.

Recycling -- means 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, or the mechanical separation and treatment of Municipal Waste (other than combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

Residual Waste - Any garbage, refuse, other discarded material or other waste, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, mining or agricultural operations and any sludge from any industrial, mining or agricultural waters supply treatment facility, waste water treatment facility or air pollution control facility, provided that it is not hazardous.

Septage Treatment Facility - A facility in which septage is treated and stabilized into a less putrescible and environmentally acceptable form.

Sewage Sludge - The coarse screenings, grit and dewatered or air-dried sludges, septic and holding tank pumpings and other residues from municipal and residential sewage collection and treatment system.

Source Separated Recyclable Materials -- means materials that are separated from Municipal Waste at the point of origin or generation for the purpose of recycling.

Transfer Station - A facility which receives and processes or temporarily stores 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 such waste materials for off-site reuse. The term does not include a collection 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 plastic.

Transportation -- means the off-site removal of any Municipal Waste at any time after generation.

For the purposes of this Ordinance, the singular shall include the plural and the masculine shall include the feminine and neutral.

SECTION 3 - RESPONSIBILITY

The Luzerne County Council, or its designee, shall be responsible for all aspects of Municipal Waste management as discussed in this Ordinance.

SECTION 4 - FUNCTIONS AND POWERS OF THE COUNTY

In accordance with all the pertinent statutes, rules, and regulations of the Commonwealth of Pennsylvania, the County shall:

1. Regulate Municipal Waste disposal services in Luzerne County.
2. Aid and assist the Commonwealth in the application and enforcement of rules and regulations pertaining to Municipal Waste management.
3. Enforce this Ordinance by issuing warning notices and initiation proceedings against violators of this Ordinance and its appurtenant rules and regulation.

SECTION 5 - DESIGNATED DISPOSAL FACILITIES AND MUNICIPAL WASTE FLOW CONTROL MANAGEMENT

Pursuant to the authority granted to the County by Act 101, it is hereby directed that all Municipal Waste collected in the various municipalities of Luzerne County shall be taken to the Municipal Waste disposal facilities, as designated by rules and regulations adopted by the County pursuant to this Ordinance, except Municipal Waste being delivered to an out of state disposal or processing facility.

SECTION 6 - PROHIBITED ACTIVITIES

1. It shall be unlawful for any person to collect and/or transport municipal solid waste from any sources within Luzerne County in a manner that is not in accordance with the provisions of this Ordinance and the minimum standards and requirements established in Chapter 285 of the DEP's Municipal Waste Management Regulations.

2. All Municipal Waste collected from sources located within Luzerne County, must be delivered to a processing or disposal facility listed in the most recently approved Luzerne County Act 101 Municipal Waste Management Plan and under contract with Luzerne County for waste acceptance.

3. It shall be unlawful for any person to scavenge any material from any Municipal Waste or source separated recyclable materials that are stored or placed for subsequent collection within Luzerne County without prior written approval from the County and the local municipality.

SECTION 7 - STANDARDS FOR COLLECTION AND TRANSPORTATION

1. All collectors or waste haulers 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 and Act 101 and PA DEP regulations adopted pursuant to Act 97 and Act 101, including Title 25, Chapter 285, Subchapter B Regulations for the Collection and Transportation of Municipal Waste.

B. All collection vehicles conveying Municipal Waste 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 vehicles conveying putrescible Municipal Waste shall be watertight and suitably enclosed to prevent leakage, roadside littering, attraction of vectors and the creation of odors and other nuisances.

D. All collection vehicles conveying non-putrescible Municipal Waste shall be capable of being enclosed or covered to prevent roadside litter and other nuisances.

E. All collection vehicles conveying Municipal Waste shall bear signs identifying the name and business address of the person or municipality which owns the vehicle and the specific type of Municipal Waste transported by the vehicle. All such signs shall have lettering which is at least six inches in height as required by Act 101.

F. All waste haulers shall be required to register with the Luzerne County Office of Solid Waste prior to operating within Luzerne County.

SECTION 8 - REPORTING REQUIREMENTS

1. Each contracted disposal facility shall prepare and submit a quarterly report to Luzerne County. The report shall be submitted on or before April 15th, July 15th, October 15th, and January 15th for the previous three-month period. At a minimum, the following information shall be included in each quarterly report:

A. The total weight of each type of municipal waste that was delivered to the site during each month of the reporting period designated as Luzerne County waste.

B. The total amount of any monies remitted directly to Luzerne County by the Facility, in accordance with the contract. This shall be listed both "quarterly" and "year to date."

SECTION 9 – PENALTIES

1. Any person who violates any provision of this Ordinance shall be, upon conviction thereof, sentenced to pay a fine of \$2,500 for each violation or to imprisonment for a period of not more than 30 days, or both.

2. Violations to be separate offenses - Each violation for each separate day and each violation of any provision of this Ordinance, any regulation promulgated hereunder or any order issued hereunder shall constitute a separate offense.

SECTION 10 - INJUNCTIVE POWERS

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

In addition, the Court of Common Pleas may issue such orders to direct any offender, a person, corporation or business or officer of the same, to remove any waste caused to be deposited on any property within the County or to surcharge any of the offenders the total costs of such removal and restoration of the land in the event the offender violates any of the terms of this Ordinance.

SECTION 11 - 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 12 - CONFLICT

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. Any additional requirement or regulation mandated by a municipality shall not be revoked so long as the requirement or rejection does not conflict with any provision of this Ordinance or State laws.

SECTION 13 - EFFECTIVE DATE

This Ordinance shall take effect 15 days after adoption.

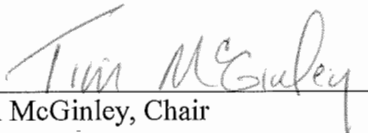
ORDAINED AND ENACTED into an Ordinance this 12th day of January, 2021.

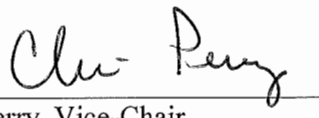
ROLL CALL VOTE (8-3)

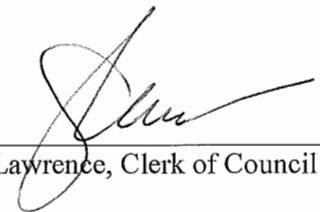
YES: Houck, McDermott, McGinley, Perry, Radle, Saidman, Schnee and Vough

NO: Griffith, Haas and SJ Urban

LUZERNE COUNTY COUNCIL

By: 
Tim McGinley, Chair

By: 
Chris Perry, Vice-Chair

Attest: 
Sharon Lawrence, Clerk of Council