

ORDINANCE NO. 33

AN ORDINANCE OF THE TOWNSHIP OF CATHARINE, BLAIR COUNTY, PENNSYLVANIA, PROVIDING FOR THE MANAGEMENT, PROCESSING, STORAGE, AND/OR DISPOSAL OF ALL MUNICIPAL WASTES, HAZARDOUS WASTES, INDUSTRIAL WASTES, LEACHATE, GASEOUS MATERIALS, WASTE OR BY-PRODUCT OF ANY PUBLIC UTILITY GENERATION PROCESS, OR OTHER SOLID OR SEMI-SOLID WASTES, LEACHATE, OR GASEOUS MATERIALS; ESTABLISHING PERMISSIBLE LOCATIONS FOR THE DISPOSAL OR STORAGE OF SAID WASTES WITHIN THE TOWNSHIP; PROVIDING FOR THE LEVYING AND COLLECTING OF TAXES AND FEES IMPOSED UPON THE DESPOSAL OR STORAGE OF SAID WASTES; AND FURTHER, PROVIDING FOR PENALTIES FOR NON-COMPLIANCE WITH THIS ORDINANCE.

SECTION 1: Findings and Purpose

WHEREAS, the Supervisors of the Township of Catharine deem it necessary for the promotion of public health, safety, morals, and general welfare of Catharine Township to regulate therein the management, processing, storage, and/or disposal of all solid and semi-solid wastes; and

WHEREAS, the Supervisors of the Township of Catharine have determined that there is a need to regulate and protect against unsafe and unhealthy conditions in the processing, storage, and disposal of solid and semi-solid wastes within the boundaries of Catharine Township.

NOW, THEREFORE, be it ordained by the Supervisors of Catharine Township, and it is hereby ordained by authority of the same, as follows:

SECTION 2: Definitions

For purposes of this Ordinance, the following words and phrases shall have the meaning set forth below:

Applicant - Any individual, entity, or corporation organized, existing, or authorized to do business under the laws of the Commonwealth of Pennsylvania, which desires to operate a facility.

Container - A portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

Discharge - An intentional or accidental spilling, leaking, pumping, pouring, dumping, emitting, or any other release of hazardous wastes, or any other wastes, constituents or materials which, when released into or onto land or water, becomes hazardous waste.

Disposal - The incineration, disposition, injection, dumping, spilling, leaking, or placing of wastes into or on the land or water in a manner that the wastes or a constituent of the waste enters the environment, is

emitted into the air, or is discharged to the waters of this Commonwealth.

Facility - All land, structures, and other appurtenances or improvements on property at which wastes are treated, stored, disposed, or managed, or where the physical, chemical, or biological nature of a waste is altered, or where wastes are placed into or on any land or water at which such wastes will remain after closure, which has obtained all required permits and plan approvals from all applicable departments and agencies of the federal, state, and local governments.

Hazardous waste - Any garbage, refuse, sludge from an industrial or other wastewater treatment plant, sludge from a water supply treatment plant or air pollution control facility and other discarded material including solid, liquid, semi-solid, or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, utility, or agricultural operations, and from community activities, or any combination of these factors, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

(i) cause or significantly contribute to an increase in mortality or morbidity in either an individual or the total population; or

(ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Leachate - A liquid, including suspended or dissolved components in the liquid, that has permeated through or drained from hazardous waste.

Management - Any contact with wastes, including, but not limited to, disposal, discharge, processing, storing, handling, transporting, or treating any wastes included in this Ordinance.

Operator - Any individual, entity, or corporation organized and existing under the laws of the Commonwealth of Pennsylvania, which has been approved by this Ordinance for the operation of a facility.

Processing - Technology used for the purpose of reducing the volume or bulk of waste or to convert all or part of such waste materials for off-site reuse; processing facilities include, but are not limited to, transfer, composting, and resource recovery facilities.

Sludge - Solid, semi-solid, or liquid waste generated from municipal, commercial, institutional, mining, utility, agricultural, or industrial waste treatment facility or wastewater treatment plant, water supply treatment plant, air pollution control facility, or other operations, exclusive of treated effluent from a wastewater treatment plant.

Solid waste - waste, including but not limited to, municipal, commercial, institutional, mining, utility, agricultural, industrial, or hazardous waste, including solid, liquid, semi-solid, or contained gaseous materials.

Spill - A discharge.

Storage - The containment of 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 waste in excess of six (6) months constitutes disposal.

Treatment - A method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste or so as to render such waste nonhazardous, safer for transport, suitable for recovery, suitable for storage, or reduced in volume. The term includes activity or processing designed to change the physical form or chemical composition of waste so as to render it neutral or nonhazardous.

Waste - This term shall include all solid wastes, semi-solid wastes, sludge, leachate, gaseous materials, or any combination thereof resulting from industrial, commercial, municipal, institutional, mining, utility, and agricultural operations, whether classified as hazardous wastes or not, which is a discarded or unwanted by-product of any such processes or operations.

Terms - The present tense shall include the future, the singular number shall include the plural, and the plural number shall include the singular. The word "shall" is always mandatory.

SECTION 3: Permissible Areas

A. Any persons, entities, or corporations which desire to operate a facility for the storage, disposal, processing, and/or management of wastes shall be required to own a minimum area of 2000 acres of land, all within the boundaries of the Township of Catharine. This 2000 acre parcel must be of a nearly square or circular shape, so that all storage, disposal, processing, and/or management of said wastes shall occur in the central portion of said parcel.

B. The 2000 acre parcel shall not include any area which drains into any river, stream, lake, pond, aquifer, or other waters, whether surface waters or underground waters.

C. The 2000 acre parcel shall be separated from all surrounding areas of the Township by a natural or man-made fence, and shall be clearly marked to warn against trespassing.

D. The 2000 acre parcel shall not encompass within its boundaries any publically-owned roadway; public roads within the Township of Catharine must run outside of the boundaries of any lands used for the storage, disposal, processing, and/or management of wastes. All such waste facilities must have a private access, paved roadway which provides access between a publically owned roadway to the entrance to a site, leading to the facility within, suitable for

use by transport vehicles and emergency equipment in all types of weather.

SECTION 4: Required Structures and Containers

A. Structures

All structures, improvements, and facilities, whether located aboveground or beneath the surface, shall be constructed of the building materials, sizes, and designs approved and mandated by all statutes and regulations of the Commonwealth of Pennsylvania Department of Environmental Resources and the Environmental Protection Agency of the United States of America, and the similar regulatory agencies, as set forth in all applicable statutes and regulations pertaining to the storage, disposal, processing, and/or management of wastes, and to the protection of the quality of the environment.

B. Containers

All containers used in the storage, disposal, processing, and/or management of wastes within the Township of Catharine shall be constructed of the materials, sizes, and designs approved and mandated by all statutes and regulations of the Commonwealth of Pennsylvania Department of Environmental Resources and the Environmental Protection Agency of the United States of America and any similar regulatory agencies, as set forth in all applicable statutes and regulations pertaining to the storage, disposal, processing, and/or management of wastes, and to the protection of the quality of the environment, and shall be used for storage, disposal, processing, and/or management of wastes as designated in said statutes and regulations.

SECTION 5: Governmental Approval

A. Before applying for a Permit for Management, Processing, Storage, and/or Disposal of Wastes, the applicant must first obtain all necessary permits and approval of plans required by all statutes and regulations of the Commonwealth of Pennsylvania Department of Environmental Resources and the Environmental Protection Agency of the United States of America, and any other similar agencies.

B. In order to qualify for approval to operate a facility for the storage, disposal, processing, and/or management of wastes within the Township of Catharine, the applicant must make application upon the forms prescribed and furnished by the Board of Supervisors of the Township of Catharine. Once this form has been completed, it must be returned to the Board of Supervisors with

payment for the nonrefundable initial administrative fee of \$5,000.00 to cover the costs of processing, research, and inspection of the proposed facility and area by the Township of Catharine and any agencies or persons designated by the Township and approval of the application, with all permits and plans required by subsection A. above, and with the bond required by subsection C. below.

C. Prior to the commencement of operation of a facility within the Township of Catharine for the storage, disposal, processing, and/or management of wastes, the operator shall file with the Township of Catharine a bond for the land affected by such facility on a form prescribed and furnished by the Township. Such bond shall be payable to the Township and conditioned so that the operator shall comply with the requirements of this Ordinance and all statutes and regulations of the Commonwealth of Pennsylvania and the United States of America regulating and affecting the storage, disposal, processing, and/or management of wastes. The amount of the bond required shall be an amount determined by the Board of Supervisors of the Township of Catharine based upon an estimate of the total cost to the Township of completing final closure of the facility and measures necessary to prevent adverse effects upon the environment, including all monitoring, post-closure care, and remedial measures. All permits shall be bonded for at least \$100,000.00, and the Township may require additional bond amounts for the permitted areas should such an increase be determined by the Township to be necessary to meet the requirements of this Ordinance or any regulated statutes or regulations. Liability under such bond shall be for the duration of the operation, and for a period of at least ten (10) full years after final closure of the area. Such bond shall be executed by the operator and a corporate surety licensed to do business in the Commonwealth of Pennsylvania. Further, all operators shall provide proof of financial responsibility upon such form prescribed and provided by the Township.

SECTION 6: Annual Fees

A. An annual fee, not to exceed the sum of \$100,000.00, shall be assessed of every such facility at the beginning of each fiscal year on which the applicant or operator desires to do business. The annual fee shall be prorated for an applicant or operator whose initial date of operation is not authorized to commence at the beginning of the corresponding fiscal year.

B. Every operator must seek re-approval of their operations by filing with the Township of Catharine, an application for re-approval at least sixty (60) days before the next fiscal year. Each such application shall be accompanied by a permit fee of \$2,500.00 to defray the cost of inspection of the facilities by the Township of Catharine or any persons or agencies designated or authorized by the Township, approval, and issuance of the yearly permit.

SECTION 7: Administration

A. In interpreting and applying the provisions of this Ordinance, said provisions shall be held to be the minimum requirements for the promotion of public health, safety, comfort, and general welfare.

B. The provisions of this Ordinance shall be enforced by the Board of Supervisors of the Township of Catharine. It shall be the duty of the Secretary to keep a record of all applications for permits and a record of all permits issued, with notations of all findings and conditions involved.

C. All permits authorized by this Ordinance shall be issued by the Secretary only after approval has been given by the Board of Supervisors of Catharine Township. No permit shall issue unless and until compliance has been made with all federal, state, and local statutes, regulations, and agencies, all applicable fees have been paid in full, and all applicable bonds have been posted as required.

SECTION 8: Violations and Penalties

A. In carrying out the provisions of this Ordinance, the Township may deny, suspend, modify, or revoke any permit if it finds that the applicant or operator has failed or continues to fail to comply with any provision of this Ordinance or any other state, federal, or local statute or regulation relating to environmental protection or to the protection of the public health, safety, and welfare; or if the Township finds that the applicant or operator fails to comply with any condition of any permit issued or has shown a lack of ability or intention to comply with any provision of this Ordinance or any other state, federal, or local statute or regulation relating to environmental protection. In the case of a corporate applicant or operator, the Township may deny the issuance of a permit or may revoke a permit if it finds that a principal of the corporation was a principal of another corporation which committed past viola-

tions of this Ordinance. Any applicant or operator which has violated or failed to comply with this Ordinance, or whose partner, associate, officer, parent corporation, subsidiary corporation, contractor, subcontractor, or agent has violated or failed to comply with this Ordinance shall be denied a permit under this Ordinance unless the permit application demonstrates to the satisfaction of the Board of Supervisors that the unlawful conduct has been corrected.

B. Independent contractors and agents of any applicant or operator shall be subject to the provisions of this Ordinance, and shall be jointly and severally liable, without regard to fault, for violations of this Ordinance which occur during the contractor's or agent's involvement in the course of operations.

C. Any permit granted by the Township as provided in this Ordinance shall be revocable or subject to modification or suspension at any time the Township determines that the facility, area, or transportation of wastes:

(1) is being, or has been, conducted in violation of this Ordinance or the rules and regulations adopted pursuant to the Ordinance;

(2) is creating a public nuisance;

(3) is creating a potential hazard to the public health, safety and welfare;

(4) adversely affects the environment;

(5) is being or has been operated in violation of any term or conditions of the permit; or

(6) is being or was operated pursuant to a permit or license that was not granted in accordance with law.

In addition, the Township may avail itself of all civil and criminal remedies available in law or equity.

SECTION 9: Severability

The provisions of this Ordinance are severable and if any of its provisions shall be held illegal, invalid or unconstitutional, the Decree of Court so holding shall not affect or impair any of the remaining portions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of Catharine Township that this Ordinance would have been adopted if such illegal, invalid or unconstitutional provision had not been included herein.

SECTION 10: Applicability

This Ordinance is not intended to and shall not apply to the Williamsburg Borough Water and Sewer Munciple Authority. Further, this Ordinance shall not be imposed upon any entity against which the Township has no present legal authorization to so tax, unless and until such authority is given to the Township by the Legislature of Pennsylvania or the United States or any regulatory agencies of Pennsylvania or the United States.

SECTION 11 Enabling Act

This Ordinance is ordained and enacted in accordance with the Local Tax Enabling Act of December 31, 1965, P.L. 1257, No. 511, as amended.

SECTION 12: Date

This Ordinance shall become immediately effective upon its enactment.

ORDAINED AND ENACTED as an Ordiance of Catharine Township on the *12th* day of *November*, 1985.

ATTEST:

CATHARINE TOWNSHIP SUPERVISORS:

Anna Mary Brenneeman
Anna Mary Brenjamen, Secretary

William Oberlander
William Oberlander, Chairman

Rodney E. Imler
Rodney Imler

Amy E. Webster
Amy E. Webster, Esq., Solicitor

Richard E. Gunn