

ORDINANCE NO. 3-94

An Ordinance of the Township of Franklin, Erie County, Pennsylvania, providing for the collection, transportation and disposal of municipal waste, garbage and rubbish; establishing contract collection and disposal; mandating that all residents (other than those qualifying as a commercial pick-up) dispose of their municipal waste, garbage and rubbish generated by them with the contract hauler designated by the Township for collection, transportation and disposal of waste; permitting only one entity to collect all waste, generated by residents other than those determined to be a commercial pick up; requiring tenants, occupants, etc. of each residence in The Township of Franklin (other than those qualifying, as a commercial pick-up) be required to pay the fees established by a contract awarded to the contract hauler; prohibiting the collection and disposal of waste without a license; describing fines and penalties for violations of this Ordinance and establishing a repealer and severability clause.

WHEREAS, The Township Code authorizes the Township of Franklin to regulate or prohibit the dumping or otherwise depositing of ashes, garbage, rubbish, dead animals and other refuse materials within the Township, including prohibiting the accumulation of ashes, garbage, rubbish, dead animals, and other refuse materials upon private property and permitting the imposition and collection of reasonable fees and charges for collection, removal and disposal of said materials and which provisions of the Township Code would also authorize the Township to provide by contract for the collection, removal and disposal of ashes, garbage, rubbish, dead animals and other refuse materials and to prescribe penalties for the enforcement thereof; and

WHEREAS, the Municipal Waste Planning, Recycling and Waste Reduction Act, the Act of July 28, 1988, P.L. 556, No. 101, 53 P.S. 4000.101 et. seq. permits a municipality to contract with any person to carry out municipal duties for the recycling, transportation, collection and storage of municipal waste; and

WHEREAS, it is the general intent and purpose of The Township of Franklin to provide a comprehensive municipal waste collection system whereby a successful bidder "contract hauler" will be given the exclusive franchise to collect and dispose of all municipal waste from all residential units other than those deemed a commercial pick-up, and to require all residential units other than commercial pick-ups to retain the services of the contractor designated by The Township of Franklin with every residential unit in The Township of Franklin to be required to pay an established monthly fee as determined by The Township of Franklin in their award to the contractor hauler; and

WHEREAS, The Township of Franklin has determined to require the contract hauler to pick-up municipal waste, rubbish and garbage on a weekly basis; and

WHEREAS, the Municipal Waste Planning, Recycling and Waste Reduction Act authorizes a municipality to establish responsibilities of persons within the municipality in reference to disposal of

municipal waste and to establish provision to insure compliance with the ordinance, including incentives penalties; and

WHEREAS, The Township of Franklin has determined to impose fines and penalties for violation of the ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by The Township of Franklin, Erie County, Pennsylvania, and it is hereby enacted and ordained as follows:

SECTION 1.

The previous recitals are incorporated herein.

SECTION 2.

For the purpose of this Ordinance, the following terms shall have the meanings indicated to-wit:

(a) The term "garbage", for the purpose of this Ordinance, shall consist of all vegetable waste or other organic substances, subject to fermentation or decay, resulting from the storage, handling, consumption and preparation of food and animal waste or other animal material including carcasses, fat, bone, swill and other animal substances subject to decay. It shall not contain dishwater or other soapy water. Garbage under this Ordinance is "municipal waste."

(b) The term "rubbish", for the purpose of this Ordinance shall consist of mixed and waste fragments resultant from the use of

household necessities, including but not limited to glass, china, metal, tin, wood, leather, rubber, carpeting, prunings from vines and shrubbery, and other foreign matter, but excepting ashes and garbage. Rubbish under this ordinance is "municipal waste".

(c) The term "ashes", for the purposes of this Ordinance shall include coal ashes, coke ashes, wood ashes and ashes resulting from other fuels used for cooking and heating purposes. Ashes under this ordinance are "municipal waste".

(d) The term "family", as used herein, shall be deemed to be and shall include any person or group of persons maintaining a separate dwelling or apartment within the limits of The Township of Franklin.

(e) The term "commercial establishment", as herein used, shall be taken to mean the place at which any business within the limits of The Township of Franklin is conducted by any person, as herein defined, which in the operation of said business has or accumulates municipal waste, garbage, ashes or rubbish, in and about its places of business, or elsewhere. Four or more residential or family units contained within one structure may, at the option of the owner, be deemed commercial (commercial pick-up) for the purpose of this Ordinance. Likewise, a mobile home park, at the option of the owner, may be deemed a commercial pick-up.

(f) The term "household rubbish", for the purpose of this Ordinance, shall consist of old furniture, paper (including newspapers and magazines tied in bundles), trunks, stoves, furnace pipe, water

boilers, broken glass, bottles, crockery, tin cans, which may accumulate, but excluding broken concrete, dirt, trees and tree limbs over 2 1/2 feet in length. Household rubbish under this Ordinance is "municipal waste".

(g) The term "material" as used in this Ordinance shall be taken to mean and include garbage, ashes, household rubbish and rubbish.

(h) Municipal Waste. Any garbage, rubbish, household rubbish, ashes, 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 the Solid Waste Management Act from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility.

(i) Person. Any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, Federal Government or agency, State institution or agency (including, but not limited to, the Authority), or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In any 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.

(j) Responsible party. All adults, parents, occupants or heads of household in each single-family residential unit other than those qualifying as a commercial pick-up under Section 2(e) of this Ordinance.

(k) Storage. The containment of any municipal 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 any municipal waste in excess of one year constitutes disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

(l) Transportation. The offsite removal of any municipal waste at any time after generation.

SECTION 3.

(a) No material shall be allowed to accumulate on the ground nor be deposited on the highway, vacant lots, homes nor on any land publicly or privately owned, nor be thrown into any stream or body of water in The Township of Franklin other than is permitted under this Ordinance, federal, state and local laws. Any person found to be in violation of this paragraph shall be subject to a fine under section 14 of this Ordinance.

(b) There shall be no doubling up of families by which more than one family uses a common container or containers except in commercial pick-ups or as provided in paragraph (c) of this section.

(c) In an instance where a residence, apartment or any building is arranged for occupancy by four or more persons or families living separately, it shall be the obligation of the property owner to furnish adequate sanitation (materials pickup) service for the entire residence, apartment or building including providing for pick-up, transportation and disposal of municipal waste. The situation described in the previous sentence shall be characterized as commercial pick-up. Mobile home parks at the option of the owner may be deemed a commercial pick-up. If the option is exercised, the owner shall have the obligation to furnish adequate sanitation service for the entire mobile home park including providing for pick-up, transportation and disposal of municipal waste.

(d) Nothing in this Ordinance shall be construed to prevent or prohibit any person engaged in the business of farming from maintaining a manure pile on land occupied by him, so long as a nuisance does not result therefrom.

SECTION 4.

(a) The occupants of dwelling houses, apartments and other type of dwellings, and the property of commercial establishments, shall provide and maintain containers, as required hereinafter, for all garbage and materials accumulated on the premises thereof. Such containers shall not exceed the capacity of 30 gallons.

(b) Garbage containers shall be made of non-absorbent material, be water tight and fly tight, and be provided with handles and closely fitted covers made of non-absorbent material. The containers shall be kept in repair so as to be at all times water tight.

(c) Garbage containers shall be used only for garbage and materials, as hereinbefore defined. All garbage shall be carefully wrapped before being placed in the garbage container. No more water shall be allowed nor permitted in garbage than naturally accumulates from table refuse. All garbage cans and receptacles shall be kept in a sanitary condition, in places accessible to the collector and with sufficient shelter to prevent their freezing to the ground.

(d) All materials shall be kept in places accessible to the collector and in such containers to be provided by the householders so that said materials can be readily removed by the collector.

(e) No garbage, materials or rubbish, in a container or otherwise, shall be set out by the occupant for any reason for the purpose of collection more than 24 hours prior to the previously established scheduled collection time. All materials shall be set out at curbside on the collection day.

SECTION 5.

Under this Ordinance and ensuing documents such as the 1994 Bid Blank and the contract pursuant thereto, Franklin Township will franchise one, and only one, person or entity to collect, transport and

dispose of all municipal waste generated by all Franklin Township residential units, excluding commercial pick-ups. The entity so franchised may, under the Ordinance, be designated as the contract hauler. The licensing provision of this section shall not be construed to permit persons other than the contract hauler to collect, transport or dispose of municipal waste. Commercial pick-up may select their own disposal service for collection, transportation and disposal of their solid waste but shall otherwise comply with this Ordinance, state, federal and local laws.

SECTION 6.

(a) All garbage, ashes, rubbish, household rubbish, materials and municipal waste generated by all residential units in Franklin Township other than those deemed a commercial pick-up shall be collected, removed and disposed of only by the contract hauler under Contract (Articles of Agreement) with The Township of Franklin, under the terms and conditions as set out in said Contract, 1994 Specifications, 1994 Bid Blank, and this Ordinance. It shall be a violation of this section of this ordinance for any person other than the contract hauler to collect, remove, transport or dispose of municipal waste generated by residential units other than those deemed a commercial pick-up. Any person found to be in violation of this paragraph shall be subject to fines under Section 14 of this Ordinance.

(b) Contracts for the collection and disposal of garbage, ashes,

rubbish, household rubbish and municipal waste under this Ordinance, shall from time to time be let to the lowest responsible bidder, which Contract shall contain, in addition to the requirements of this Ordinance, such other provisions not in therein, and it shall be executed by The Township of Franklin. No contract shall be let for a period to exceed three (3) years.

SECTION 7.

(a) No garbage, ashes, rubbish, household rubbish or municipal waste shall be collected or conveyed over the streets, alleys or thoroughfares of The Township of Franklin by any person or persons other than the contract hauler, or his duly authorized agents and employees, except duly authorized contract haulers of other municipalities conveying garbage, ashes, rubbish, household rubbish or municipal waste collected in other municipalities, and except any garbage and rubbish collectors privately engaged in the removal of garbage, ashes, rubbish, household rubbish or municipal waste from premises other than residences (commercial pick-up) when said garbage, ashes or rubbish is not collected by the contract hauler of The Township of Franklin.

(b) Garbage, ashes, rubbish, household rubbish and municipal waste shall be collected from all premises between the hours of sunrise and sunset.

SECTION 8.

(a) All persons, firms or corporations collecting garbage, ashes, rubbish, household rubbish and municipal waste in The Township of Franklin and transporting the same upon the streets and alleys of The Township of Franklin, shall haul the same only in conveyances and receptacles tightly closed on the bottom and sides, so as to prevent said garbage, ashes, rubbish, household rubbish and municipal waste from spilling, dropping or falling to the streets, alleys or highways.

(b) All conveyances hauling such garbage, ashes, rubbish, materials, household rubbish and municipal waste shall be so operated and covered so as to prevent said garbage, ashes, rubbish, household rubbish and municipal waste from being blown upon or spilled upon any street, walk or alley of The Township of Franklin. Every conveyance shall have plainly printed thereon the name of the contractor hauler and shall be kept in a sanitary condition at all times.

(c) All conveyances hauling such garbage, ashes, rubbish, materials, household rubbish and municipal waste on Franklin Township roads shall not exceed a gross vehicle weight of ten thousand (10,000) pounds during the months of March, April and May of each contract year unless a weight in excess of ten thousand (10,000) pounds is approved by the Road Superintendant for The Township of Franklin upon request of the contract hauler.

SECTION 9.

The contract hauler for the collection and disposal of garbage, ashes, rubbish, household rubbish and municipal waste and any person contracted to engage in such collection and disposal shall be required at his own cost and expense to furnish, maintain and operate all vehicles, machinery and equipment necessary for the proper performance of the Contract, except that he shall not be required to furnish receptacles or containers, which are to be provided by occupants of premises within The Township of Franklin.

SECTION 10.

(a) The Contract Hauler for the collection and disposal of garbage, ashes, rubbish, household rubbish and municipal waste, and any person contracted to engage in the collection and disposal of garbage, ashes, rubbish, household rubbish and municipal waste shall be required, at his own municipal waste landfill or plant of sufficient size and capacity to dispose of the municipal waste collections made by him under the terms of his Contract with The Township of Franklin through the life of the contract. Lack of capacity at a municipal waste landfill shall not excuse contractor's performance under the contract. The Contract Hauler or any hauler shall be obligated to have a proper facility or facilities for the required disposal of municipal waste in accordance with state and local laws, rules and regulations.

(b) All material shall be disposed of by the contract hauler, or any licensee, or any hauler, in such a manner so as not to endanger or interfere with the health and comfort of any of the inhabitants of The Township of Franklin and in compliance with state, federal and local laws and regulations.

SECTION 11.

(a) All municipal waste generated by all residential units in The Township of Franklin, excluding those governed under a commercial pick-up, shall be collected, removed, transported and disposed of only by the Contract Hauler designated by The Township of Franklin under Section 12. Every resident, householder, tenant, owner, responsible party or person occupying a dwelling, apartment, condominium or place of residence generating municipal waste within The Township of Franklin (excluding those determined to be an authorized collection system for municipal waste) shall have their municipal waste collected, removed, transported and disposed of only by the Contract Hauler designated by The Township of Franklin (through bidding process referenced in Section 12) at a fee to each household to be established in accordance with Section 13.

(b) All "responsible parties" (Section 2(j)) shall be required to utilize the services of the contract hauler for collection, transportation and disposal of municipal waste and materials generated by the responsible parties' residence and shall be obligated to pay for

said services as provided in Section 13.

SECTION 12.

The Township of Franklin has determined to designate one entity which shall be responsible for the collection, transportation, and disposal of all municipal waste resulting from and generated by single-family residential units (but excluding commercial pick-ups) as required by state and local law.

(a) The Township of Franklin shall, through appropriate advertisement and solicitation of bids, award to a person or company (for convenience sometimes referred to as the "Contractor" or "Contract Hauler") who qualifies as the lowest, responsible bidder meeting bid specifications, to pick-up, collect, transport, haul and dispose of all municipal waste generated by each single-family residential unit (but excluding those residential units qualifying as a commercial pick-up) for which services the Contract Hauler may bill and collect a fee as authorized under Section 13.

(b) The Contract Hauler shall provide a weekly pick-up of municipal waste and materials from all residential units exclusive of commercial pick-ups, and shall notify each head of household of the time and the day of the week for the scheduled pick-up of municipal waste and materials. This shall be unlimited pick-up as to volume or number of containers of municipal waste or materials.

(c) The Contract Hauler shall be the only authorized person to pick-up, transport and dispose of all municipal waste generated by residential units in The Township of Franklin, excluding the pick-up and disposal of waste from those units deemed a commercial pick-up. It shall constitute a violation of this Ordinance for any other person or company to pick-up, transport or dispose of municipal waste generated by residential units in The Township of Franklin, excluding commercial pick-ups.

(d) The person or entity which has, as a result of advertisement and solicitation of bids, been awarded the exclusive and sole franchise of right to collect, transport and dispose of municipal waste shall be subject to the following duties and obligations:

(i) Contract Hauler shall at all times follow, comply with and abide by the specifications, the bid blank and the contract for the collection, transportation and disposal of garbage, ashes, rubbish, household rubbish and municipal waste in The Township of Franklin, Erie County, Pennsylvania as adopted by this Ordinance.

(ii) Contract Hauler shall at all times follow, comply with and abide by federal, state and local laws, ordinances, resolutions, rules and regulations including but not limited to the Solid Waste Management Act, this Ordinance and the contract specifications.

(e) All municipal waste placed by persons for collection by the Contract Hauler pursuant to the Ordinance shall, from the time of placement at the curb, become the property of the Contract Hauler.

Nothing in the Ordinance shall be deemed to impair ownership materials by the generator unless and until such materials are placed at the curbside for collection.

SECTION 13.

Every resident, householder, tenant, owner, responsible party or person occupying a dwelling, apartment, condominium, or place of residence within The Township of Franklin (excluding those governed by a commercial pick-up) generating municipal waste shall pay or be responsible to pay to the designated contract hauler a fee or charge for the contract hauler's services in the collection, removal, hauling and disposal of municipal waste generated by said household.

There shall be two (2) alternatives for each household for all services in collection, transportation and disposition of municipal waste for which the Contract Hauler shall provide curbside collection or pick-up, transportation and disposal of all municipal waste generated by each household. These two (2) alternative service methods shall be as follows:

(i) One (1) set fee per household, to be billed and paid on a quarterly basis, for all services in collection, transportation and disposition of all municipal waste and materials without limitation as to quantity of containers, bags or volume except as expressly set forth pursuant to this Ordinance, or in the specifications of the contract entered into between The Township of Franklin and the Contractor. This

fee likely will be required to be prepaid each quarter, and it shall be the responsibility of each resident or responsible party occupying such household to pay to the Contractor the fee so established under this Ordinance and the contract awarded pursuant hereto.

(ii) One (1) set fee for each refuse bag designated by Contractor purchased for use by residents in placing municipal waste and materials at the Franklin Township Building for collection, transportation and disposal. Residents electing this "per bag" option shall be authorized to place municipal waste and materials at the Franklin Township Building for collection only in those bags authorized by and purchased from the Township of Franklin.

(a) Fee to be charged each household for said collection and disposal service will be established as a result of the solicitation of bids by The Township of Franklin and award made to the lowest responsible bidder who meets the Township's specifications.

(b) The Contractor shall provide refuse bags having a minimum capacity of 30 gallons and as designated by Contractor to residential customers electing the "per bag" service method through direct delivery and sale to Franklin Township. Residents electing the "per bag" service shall purchase the bags at the Franklin Township Building. No other location shall be used for the sale of bags without the prior approval of the Franklin Township Supervisors.

(c) For any period in excess of 30 continuous days, where a party (such as a resident, householder, tenant, owner or responsible party)

has paid or is obligated to pay for disposal services, but his household is not or has not generated municipal waste for the 30 day period, said party shall be entitled to a pro rata refund or credit from the Contract Hauler for the period of time for which the Contract Hauler's services would not be occupied or all of the occupants have moved to a new residence in order for a household not to generate municipal waste.

(d) All residents of Franklin Township who contract with Contractor for provision of services pursuant to this Ordinance shall, effective October 1, 1994 or upon first contracting with Contractor, elect the method of service (i.e., flat quarterly fee for unlimited collection or the "per bag" method) desired. A resident shall be obligated to retain the service method elected through September 30 of that contract year. Residents contracting with the Contractor shall be entitled to elect a different service method only effective October 1 of each year during the term of the contract between the Contractor and Franklin Township, and such election shall be binding upon the resident through September 30 of that contract year. No resident shall be allowed to avoid these requirements through voluntary termination and later reinstatement or otherwise, unless Contractor should agree to the contrary.

(e) It shall be the responsibility of the Contract Hauler to bill and collect from each household for the services rendered by the Contract Hauler in collection, transportation and disposal of municipal

waste. In the event the contract Hauler is not paid the quarterly fee per household for the collection, transportation and disposition of municipal waste, Contract Hauler may proceed in a civil action against the resident, householder, tenant, owner or responsible party occupying said household. Under no circumstances shall The Township of Franklin be responsible for any fees for the collection, transportation or disposition of municipal waste, other than fees owed by The Township of Franklin. Contract Hauler may not proceed against or recover from The Township of Franklin for any fees or expenses owed Contract Hauler by third parties.

(f) In considering bids received in response to the specifications and solicitation for bids issued pursuant to this Ordinance, the Franklin Township Supervisors shall look to both the fixed quarterly fee bid for unlimited collection, transportation and disposal of municipal waste and materials service method, and to the "per bag" service method in order to establish the bid price for purposes of determining and evaluating the amount or price of bids received.

SECTION 14.

Any person, firm or corporation who shall violate any of the provisions of this Ordinance shall be guilty of a summary offense and upon conviction be sentenced to pay a fine of not less than one hundred (\$100.00) dollars nor more than three hundred (\$300.00) dollars, and costs of prosecution for each and every offense. Each day that a

violation is permitted to exist shall constitute a separate offense.

SECTION 15.

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. Should any part of this Ordinance be held unconstitutional, illegal or unenforceable by any court of competent jurisdiction, such invalidly shall not affect, impair, nullify or otherwise prevent such parts as are legal, and it is the intention of The Township of Franklin that such remainder shall be and remain in full force and effect.

Ordinance No. 8-95 of Franklin Township regulating the disposal of solid waste and prescribing penalties for violation is hereby repealed.

SECTION 16.

This Ordinance shall be effective September 1, 1994.

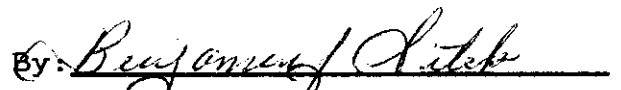
BE IT ENACTED this 28th day of July , 1994.


ATTEST:


THE TOWNSHIP OF FRANKLIN



Secretary
Bonnie J. Bernhardt

By: 

Benjamin J. Sitek, Chairman


Herbert H. Netzler


David G. Henderson

SEAL