

Chapter 146

SOLID WASTE

[HISTORY: Adopted by the Board of Supervisors of the Township of West Earl: Art. I, 12-30-1986 as Ord. No. 60; Art. II, 6-10-1991 as Ord. No. 86. Amendments noted where applicable.]

GENERAL REFERENCES

Outdoor burning — See Ch. 67.
Junk and junkyards — See Ch. 110.
Nuisances — See Ch. 124.
Sludge — See Ch. 143.

ARTICLE I

Solid Waste Disposal

[Adopted 12-30-1986 as Ord. No. 60]

§ 146-1. Definitions and word usage.

A. The following terms shall have the following meanings in this Article:

COUNTY — The County of Lancaster.

EXISTING CONTRACT — Any agreement or contract, fully executed prior to the effective date of this Article, for the collection, disposal or transportation of municipal waste generated within this municipality.

FACILITY — The waste-to-energy incinerator to be constructed by or on behalf of the LCSWMA pursuant to the plan.

FULL SYSTEM OPERATION or FULLY OPERATIONAL — That date which is 60 days from the date upon which the county and other municipalities representing in the aggregate not less than 60% of the population of the county, as determined by the 1980 Decennial Census of the United States, execute the intermunicipal agreement and enact waste flow ordinances.

LCSWMA — The Lancaster County Solid Waste Management Authority, its assigns, its successors in interest and its predecessor in interest, the Lancaster Area Refuse Authority.

MUNICIPALITY — The Township of West Earl, a township of the second class located within the County of Lancaster, Commonwealth of Pennsylvania.

PERSON — Any individual, firm, partnership, corporation, association, cooperative enterprise, trust, municipal authority, federal institution or agency, state institution or agency, municipality or other governmental agency or any other entity or any group of such persons which is recognized by law as the subject of rights and duties. In any provisions of this Article prescribing a fine, penalty, imprisonment or denial or grant of any license, the term "person" shall include the officers and directors of a corporation or

other legal entity having officers and directors.

PLAN — The Municipal Waste Management Plan for the county, adopted by the county or municipalities therein and approved by the Pennsylvania Department of Environmental Resources.

POINT OF ENTRY INTO THE SYSTEM — Any delivery site within the system designated by the LCSWMA for the delivery of regulated municipal waste.

RECYCLING — The collection, separation, recovery and sale or reuse of metals, glass, paper, yard waste and other materials which would otherwise become municipal waste.

REGULATED MUNICIPAL WASTE — Any garbage, refuse, industrial lunchroom or office waste and other material, including solid or semisolid material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities and any other solid waste which is within the definition of "municipal waste" set forth in Section 103 of the Pennsylvania Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, 35 P.S. § 6018.103 (Purdon Supp. 1985), and which the LCSWMA, the county or any contractor selected by the county or the LCSWMA to construct and/or operate a resource recovery facility or facilities to be located within the municipal boundaries of the county by ordinance or regulation is willing to accept at the facility, but excluding:

- (1) Any liquid waste or sludge.
- (2) Any waste which is defined by existing or future federal or state law or regulation as hazardous waste or residual waste.
- (3) Infectious waste, pathological waste or other waste for which treatment or handling requirements different from those normally applicable to municipal waste apply.
- (4) Polychlorinated biphenyls.
- (5) Any waste which may be marketable and which is intentionally segregated for purposes of recycling.
- (6) Materials specifically excluded under applicable county or LCSWMA ordinances, rules or regulations.

SOURCE SEPARATION — The segregation and collection, prior to delivery to a point of entry into the system, of materials for the sole purpose of recycling.

SYSTEM — The overall solid waste management and disposal system and every aspect thereof owned or operated by or on behalf of the LCSWMA, including, without limitation, equipment, transfer stations, resource recovery facilities and landfills owned or operated or to be acquired, constructed or operated by the LCSWMA or any agent, designee or contractor thereof in the implementation of the plan.

TRANSFER FACILITY — Any solid waste facility which is now or hereafter may be established by the LCSWMA or the county for the purpose of accepting solid waste for processing and economical consolidation for subsequent delivery to the facility or other

solid waste disposal site.

- B. All other words and phrases shall have the same meanings as set forth in the Pennsylvania Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, 35 P.S. § 6018.101 et seq. (Purdon Supp. 1985), as it may hereinafter be amended or supplemented by legislation regarding municipal waste planning.

§ 146-2. Licensed collectors.

- A. Licensing. No person who is not duly licensed by the LCSWMA to deliver waste to the county system may collect or transport municipal waste located or generated within this municipality. This prohibition shall become effective 120 days from the effective date of this section of this Article.
- B. Compliance with rules, regulations and ordinances. In carrying on activities related to solid waste collection or transportation within this municipality, all municipal waste collectors and all municipal waste transporters shall comply with all rules, regulations and ordinances pertaining to the collection, transportation and disposal of solid waste as may be hereinafter enacted by this municipality or by the county pursuant to a parallel county waste flow ordinance and all rules and regulations enacted by the LCSWMA pursuant to the authority given it under 53 P.S. § 315 (Purdon 1974 and Purdon Supp. 1985), as hereafter amended.
- C. Administration. Licenses hereunder shall be issued, revoked and administered by the LCSWMA.

§ 146-3. Disposal; recycling.

- A. Delivery to LCSWMA/county sites. All municipal waste collectors and transporters shall deliver and dispose of all regulated municipal waste collected or generated within the municipality at a transfer station or disposal facility owned and operated by or on behalf of the LCSWMA, subject to such reasonable regulations for the operation thereof as may be established by the county or the LCSWMA.
- B. Disposal at other sites. Disposal of regulated municipal waste collected or generated within the municipality may occur at other sites only as permitted by rule, regulation, ordinance or order duly issued by the county or by the written agreement of the county, the LCSWMA and the municipality. Disposal of regulated municipal waste at an existing facility from sources reflected on the notice to the municipality, the county and the LCSWMA as provided in § 146-6C of this Article shall be permitted.
- C. Recycling. Nothing herein shall be deemed to prohibit source separation or recycling or to affect any sites at which source separation or recycling may take place.

§ 146-4. Compliance with other regulations.

- A. Compliance with county and LCSWMA regulations. The collection, transportation and disposal of municipal waste present or generated within the municipality shall

be subject to such further reasonable rules and regulations as may from time to time be promulgated by the county pursuant to its Waste Flow Ordinance and such rules and regulations as may be adopted by the LCSWMA pursuant to 53 P.S. § 315, as hereafter amended, including, without limitation, regulations governing applications and standards for licensing, fees to be charged for such licensing, the terms of licenses, procedures, recordkeeping, transportation routes and other matters.

- B. County authorization to adopt regulations. Rules and regulations adopted by the county pursuant to the parallel county waste flow ordinance to be adopted pursuant to the intermunicipal agreement described in § 146-11 hereof shall be deemed rules and regulations adopted under this Article, and the county is hereby authorized to adopt such rules and regulations.
- C. Consistency of regulations with this Article and other laws. No rules or regulations adopted pursuant to this Article shall be contrary to or less stringent than the provisions of this Article, the plan, the County Waste Flow Ordinance, the Pennsylvania Solid Waste Management Act¹ or regulations adopted thereunder or such other laws, regulations or requirements as may be enacted by the United States of America, the Commonwealth of Pennsylvania, the Pennsylvania Department of Environmental Resources or the Pennsylvania Environmental Quality Board governing municipal waste planning, collection, storage, transportation, processing or disposal.

§ 146-5. Existing contracts.

- A. Noninterference with existing contracts. Nothing contained in this Article shall be construed to interfere with or in any way modify the provisions of any existing contract in force in the municipality on the effective date of this Article.
- 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 Article, unless such renewal or such contract shall conform to the requirements of this Article, the County Waste Flow Ordinance, rules and regulations promulgated thereunder and the terms of licenses issued thereunder.

§ 146-6. New or expanded facilities restricted; continuation of existing facilities.

- A. Prohibition of private waste processing and disposal facilities. No person other than the LCSWMA, the United States of America, the Commonwealth of Pennsylvania, a county, a municipality, an authority created by the foregoing or a person acting on behalf of the foregoing shall use or permit to be used any property owned or occupied by that person within the municipality as a municipal waste processing or disposal facility, for municipal waste generated either within the municipality or elsewhere, without the express written approval of the municipality, the county and

1. Editor's Note: See 35 P.S. § 6018.101 et seq.

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- B. Recycling. The prohibition set forth in Subsection A of this section shall not interfere with the operation of any program for recycling.
- C. Existing facilities. The prohibition set forth in Subsection A of this section shall not interfere with the operation of any privately or publicly owned solid waste facility which has been issued a solid waste permit before the effective date of this Article, provided that:
 - (1) The owner or operator of the facility provides written notice to the county and the municipality of the facility permit number, address, ownership and existing sources of waste no later than 60 days after the effective date of this Article.
 - (2) The facility accepts regulated municipal waste from no sources within the county other than those then authorized by the facility's solid waste permit and then being accepted, as reflected on the notice provided to the county and the municipality pursuant to this section.
 - (3) The facility shall not be expanded in capacity, with the exception of facilities owned or operated by or on behalf of another county, which facilities may expand if such expansion is consistent with a DER-approved municipal waste management plan.
- D. Notices under this section shall be submitted to the Township Secretary on behalf of the municipality. The county may, by resolution, designate the LCSWMA or another authority or agency as the entity which will receive notice pursuant to this section.

§ 146-7. Unlawful activities; nuisances.

- A. Unlawful conduct. It shall be unlawful for any person to:
 - (1) Accumulate or cause to be accumulated municipal waste in an amount greater than 20 tons, other than waste which has been source separated for the purpose of recycling.
 - (2) Violate or cause or assist in the violation of any provision of this Article, any rule, regulation or order promulgated hereunder or any rule, regulation or order promulgated by the LCSWMA or the county consistent with this Article.
 - (3) Process, treat, transfer or dispose of or cause to be processed, treated, transferred or disposed of regulated municipal waste generated within the municipality at any solid waste facility other than a solid waste facility owned or operated by or on behalf of the county or the LCSWMA or an existing solid waste facility as permitted by § 146-6C of this Article, without the express written consent of any municipality within which the facility is located, the county and the LCSWMA.

- (4) Collect or transport municipal waste present or generated within the county without a valid license for disposal issued by the LCSWMA.
- (5) Hinder, obstruct, prevent or interfere with the municipality, the county, the LCSWMA or their personnel in the performance of any duty under this Article or in the enforcement of this Article.
- (6) Act in a manner that is contrary to the Pennsylvania Solid Waste Management Act² or regulations promulgated thereunder, the plan, this Article, the county ordinance or rules or regulations promulgated thereunder or the terms of licenses issued thereunder.

B. Public nuisance. Any unlawful conduct set forth in Subsection A hereof shall constitute a public nuisance.

§ 146-8. Violations and penalties. [Amended 8-9-1993 by Ord. No. 101; 6-24-1996 by Ord. No. 116; 4-28-1997 by Ord. No. 129]

If the Board of Supervisors or the officer designated to enforce this article by the Board of Supervisors determines that a person has committed or permitted the commission of a violation of this article, the Board of Supervisors or such enforcement officer shall inform such person, in writing, of the violation, shall notify such person to cease the violation of this article and shall inform such person that he or she must pay a civil penalty to the township within the range of the amounts set forth below to settle the violation. The penalty for a first offense shall be not less than \$50 and not more than \$600; the penalty for a second offense shall be not less than \$100 and not more than \$600; and the penalty for a third or greater offense shall be not less than \$200 and not more than \$600. If such person fails or refuses to remit the penalty to the township within 10 days from the date of the written notice of the violation of this article, the township may commence a civil enforcement proceeding seeking penalties and costs for the violation of this article and/or may commence an action in equity. The township shall seek a judgment for the penalty previously imposed together with additional daily penalties for continuing violations, plus all court costs, including the reasonable attorneys' fees incurred by the township in the enforcement proceedings. Each day that a violation continues shall constitute a separate violation, and each section of this article which is violated shall constitute a separate violation. If the defendant neither pays nor timely appeals the judgment, the township may enforce the judgment pursuant to the applicable rules of civil procedure.

§ 146-9. Revocation of license.

Upon finding that any person has engaged in unlawful conduct as defined in this article:

- A. The Lancaster County Solid Waste Management Authority, the municipality and the county may revoke any license issued by the LCSWMA to that person in accordance with § 146-2 of this Article.
- B. The Lancaster County Solid Waste Management Authority may deny any

2. Editor's Note: See 35 P.S. § 6018.101 et seq.

subsequent application by that person for a license pursuant to § 146-2 hereof.

§ 146-10. Injunctions; concurrent remedies.

- A. Restraining violations. In addition to any other remedy provided in this article, the municipality, the county or the LCSWMA may institute a suit in equity where unlawful conduct or a public nuisance exists, as defined in this article, for an injunction to restrain a violation of this article or rules, regulations, orders or the terms of licenses promulgated or issued pursuant to this article. In addition to an injunction, the court may impose penalties as authorized by § 146-8 hereof and revoke any licenses as authorized by § 146-9 hereof.
- B. Concurrent remedies. The penalties and remedies prescribed by this Article shall be deemed concurrent. The existence or exercise of any remedy shall not prevent the municipality, the county or the LCSWMA from exercising any other remedy provided by this article or otherwise provided at law or equity.

§ 146-11. Intermunicipal agreement.

- A. Entry into intermunicipal agreement. In order to implement the intent and terms of this article, the municipality, pursuant to the authority of the Intergovernmental Cooperation Act, Act of July 12, 1972, No. 180, 53 P.S. §§ 481 to 490 (Purdon 1974 and Purdon Supp. 1984), and Article IX, § 5, of the Constitution of the Commonwealth of Pennsylvania, hereby enters into the intermunicipal joint cooperation agreement between this municipality, the county and other municipalities within the county of Lancaster, which is attached hereto as Exhibit A and incorporated herein, together with such changes consistent with this article, if any, as may be approved by the officials of the parties executing the same, such execution to be conclusive evidence of such approval ("intermunicipal agreement").
- B. Terms and implementation of intermunicipal agreement. As more fully set forth in the intermunicipal agreement and this article:
 - (1) Conditions and terms of agreement. In the intermunicipal agreement:
 - (a) The county agrees to:
 - [1] Arrange for the provision of municipal waste disposal facilities for the economical and environmentally sound disposal of municipal waste generated within the participating municipalities.
 - [2] Coordinate recycling activities and marketing.
 - [3] Assure continuing municipal waste planning for the county and the participating municipalities by entering into an agreement with the LCSWMA.
 - (b) The county and participating municipalities representing, in the aggregate, not less than 60% of the population of the county each agree to enact a waste flow ordinance in a form substantially similar to this Article and to assure otherwise that all acceptable municipal solid waste

is delivered to the county system.

- (c) The county agrees to:
 - [1] Enact rules and regulations.
 - [2] Cause the LCSWMA to enact additional rules and regulations and to administer a licensing program.
 - [3] Enforce this article and the parallel municipal and county waste flow ordinances.
 - (d) The county agrees to assure reasonable solid waste disposal fees for residents of the participating municipalities.
 - (e) The parties agree to cooperate in the joint enforcement of the intermunicipal agreement and all ordinances enacted pursuant to the intermunicipal agreement, and this municipality thereby agrees cooperatively to exercise, to delegate to the county and to allow delegation of such powers, duties and responsibilities as set forth in the intermunicipal agreement.
- (2) Duration of term of agreement. The term of the intermunicipal agreement shall commence upon the date on which the county and other municipalities representing at least 60% of the population of the county have executed the intermunicipal agreement and shall terminate 40 years following that date, unless terminated earlier for cause.
- (3) Purpose and objectives of agreement. The purpose of the intermunicipal agreement is to provide a mechanism to:
- (a) Finance, construct and operate a municipal waste disposal system to serve this municipality and other municipalities within the county.
 - (b) Administer a countywide recycling program.
 - (c) Provide continuing municipal waste planning, as more fully set forth in the recitals to the intermunicipal agreement and this article.
- (4) Manner and extent of financing agreement. Enforcement of this Article shall be financed by the county's general revenues, except insofar as the municipality elects to enforce this article; administration of this article, the recycling program and planning shall be financed by the LCSWMA with revenues received from the operation of the county system; and construction and operation of the county system shall be financed by debt instruments issued by the LCSWMA and operating revenues.
- (5) Organizational structure necessary to implement agreement. The Lancaster County Solid Waste Management Authority shall be formed from LARA by amendment of LARA's Articles of Incorporation. The Lancaster County Solid Waste Management Authority shall: construct and operate or arrange for the construction and operation of the county system and administer and enforce

this Article and parallel ordinances adopted by the county and other municipalities pursuant to the intermunicipal agreement; and the county and the municipality shall enforce said waste flow ordinances with assistance from the LCSWMA.

(6) Management and acquisition of property. All property within the county system shall be acquired, managed and disposed of by the LCSWMA in accordance with its separate agreement with the county and the powers and duties imposed upon the LCSWMA by law.

C. Execution. Appropriate officers of the municipality are authorized and directed to execute the intermunicipal agreement on behalf of the municipality.

§ 146-12. County/LCSWMA operations and charges.

The municipality has been advised by the county that the plan proposes to provide for solid waste processing and disposal facilities which will be operated efficiently and economically by the LCSWMA and in accordance with all applicable laws and regulations and also that the LCSWMA will impose reasonable charges, which will be uniform among all classes of the users of the plant or plants from participating municipalities which execute the intermunicipal agreement within 90 days of the date upon which the DER grants preliminary approval to the plan. Charges may differ for different categories of waste and for different points of entry into the system.

§ 146-13. Construal of provisions.

The terms and provisions of this Article are to be liberally construed so as best to achieve and to effectuate the goals and purposes hereof. This Article shall be construed in pari materia with the Act of July 7, 1980, P.L. 380, No. 97, known as the "Solid Waste Management Act," 35 P.S. § 6018.101 et seq. (Purdon Supp. 1985).

ARTICLE II
Collection and Recycling
[Adopted 6-10-1991 as Ord. No. 86]

§ 146-14. Legislative intent.

The Solid Waste Management Act, Act 97 of 1980,³ established a comprehensive planning and regulatory framework for the storage, collection, transportation, processing and disposal of solid waste, including municipal waste. Pursuant to the requirements of Act 97 and the request of each municipality within Lancaster County ("county"), the Board of Commissioners of the county ("County Board") prepared and adopted the 1986 Lancaster County Solid Waste Management Plan ("1986 Plan"), which was adopted by each municipality within the county and approved by the Pennsylvania Department of Environmental Resources. The 1986 Plan provided for a comprehensive and integrated countywide system for solid waste management ("system") which included, inter alia, construction of a resource recovery facility for incineration of municipal waste and

3. Editor's Note: See 35 P.S. § 6018.101 et seq.

generation of energy, expansion of the then-existing Creswell landfill, construction of transfer facilities throughout the county and development of a recycling program. In order to implement the 1986 plan and finance the system, the county and each municipality within the county enacted certain waste flow control ordinances and entered into a joint cooperation agreement ("intermunicipal agreement"). The Municipal Waste Planning, Recycling and Waste Reduction Act, Act 101 of 1988, was approved on July 28, 1988,⁴ and gave certain municipalities, including the Township of West Earl, the responsibility for developing and implementing within their boundaries a source-separation and collection program for recyclable materials. Pursuant to Act 101 and the request of the County Board, the Lancaster County Solid Waste Management Authority has prepared (as a revision to the 1986 Plan) the Lancaster County Municipal Waste Management Plan of 1990 (the "1990 Plan"), which provides for the establishment and implementation by certain municipalities of source-separation and collection programs for recyclable materials in order to conform to Act 101 and to support and maintain the system. The Township of West Earl has ratified the 1990 Plan and has engaged with the county in mutual and beneficial cooperation and coordination under the 1986 Plan and the intermunicipal agreement, establishing an effective, efficient, reliable and environmentally safe system for the storage, collection, transportation, processing and disposal of municipal waste. It is desirable and appropriate to continue such cooperation by implementing a recycling program which is consistent with the 1990 Plan, the intermunicipal agreement, the system and Act 101.

§ 146-15. Definitions and word usage.

- A. Any term, if not defined in this Article, shall have the meaning as from time to time set forth in Act 97, Act 101⁵ or the LCSWMA rules and regulations.
- B. In addition, as used in this Article, the following terms shall have the following meanings:

ACT 97 — The Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, as now or hereafter amended, 35 P.S. § 6018.101 et seq.

ACT 101 — The Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 556, No. 101, as now or hereafter amended, 53 P.S. § 4000.101 et seq.

ALUMINUM — All food and beverage cans made of the light-in-weight, ductile and malleable metallic substance or element commonly known as "aluminum." This description excludes aluminum foil, trays, plates and miscellaneous aluminum products.

BULKY WASTE — Large items of solid waste, including but not limited to furniture, large automobile parts, trees, branches and stumps.

COMMENCEMENT DATE — September 1, 1991, the date upon which the township's mandatory recycling program and the contract collection services began.

4. Editor's Note: See 53 P.S. § 4000.101 et seq.

5. Editor's Note: See 35 P.S. § 6018.101 et seq. and 53 P.S. § 4000.101 et seq., respectively.

COMMINGLED — Recyclable materials which have been:

- (1) Segregated from regulated municipal waste but have not been separated into different types of recyclable materials.
- (2) Placed in a recycling container for the purpose of collection.

COMMUNITY ACTIVITIES — Events that are sponsored by public or private agencies or individuals, including but not limited to fairs, bazaars, socials, picnics and organized sporting events, attended by 200 or more individuals per day.

CONTRACT — The agreement between the township and a licensed hauler under which collection services are to be provided to residential units for contract waste and for recyclable materials other than leaves.

CONTRACTOR — The person providing contract waste and recyclable materials collection services under the contract.

CONTRACT WASTE — Those portions of regulated municipal waste which are to be collected and disposed of under the contract. "Contract waste" consists exclusively of refuse and oversized refuse items.

CURBSIDE — The correct location for the placement of refuse containers and recycling containers for the purpose of collection by the contractor, which shall be adjacent to the residential unit and no more than five feet from the public street used by collection vehicles.

CUSTOMER — There are two types of customers in the township's program for the collection of regulated municipal waste and designated recyclable materials. The two types are defined as follows:

- (1) CUSTOMER, TOWNSHIP — A residential unit that elects to receive the collection services for contract waste and designated recyclable materials under the contract.
- (2) CUSTOMER, OTHER — A residential unit that elects not to receive the collection services under the contract and that independently contracts with a licensed hauler for the collection of regulated municipal waste and designated recyclable materials.

DESIGNATED RECYCLABLE MATERIALS — Those source-separated recyclable materials designated in § 146-20 of this Article.

EXISTING CONTRACT — Any contract for the storage, collection, transportation, processing or disposal of regulated municipal waste or recyclable materials generated or located within the township which was legally entered into prior to the effective date of this Article and, when entered into, was legally enforceable.

EXTRA REFUSE CONTAINERS — Refuse containers which are in excess of the limit of three refuse containers per collection site.

EXTRA-SERVICE TAG — A label which shall be affixed to tires, white goods,

oversized refuse items, yard waste and extra refuse containers in order for such items to be collected by the contractor.

FACILITY — Any specific site or person designated by the LCSWMA as the specific place or site or person to which solid waste or source-separated recyclable materials, or any portion of solid waste or source-separated recyclable materials, shall or may be delivered, or in the absence of a specific site or person being designed by the LCSWMA, any approved site for the delivery of any category of solid waste or source-separated recyclable materials. A site will be deemed to be an approved site for the purposes of this definition so long as that site:

- (1) Is in possession of all applicable local, state and federal permits.
- (2) Is operating in accordance with all applicable local, state and federal laws and regulations.
- (3) Provides the LCSWMA with such data and information as the LCSWMA requests, including, without limitation:
 - (a) The quantity, type, source and date of receipt of solid waste or source-separated recyclable materials that were generated in Lancaster County and delivered to the site.
 - (b) Proof that the site is in compliance with Subsections (1) and (2) of this definition.
 - (c) In the case of source-separated recyclable materials, proof that all such materials received at the site are, in fact, recycled.

FARM — A tract of land containing 10 or more acres which is used for agricultural purposes, which agricultural activities provide the major and primary source of income to the residents of the tract.

GLASS, CLEAR — Consists only of clear food and beverage containers made of glass, of one-gallon-or-less capacity, and comprised of the hard, brittle and transparent or partially transparent substance produced by fusion of silica and silicates or sand containing soda or lime and/or other chemicals and substances usually included in the manufacture of glass.

GLASS, COLORED — Consists only of green or brown food and beverage containers made of glass, of one-gallon-or-less capacity, and comprised of the hard, brittle and transparent or partially transparent substance produced by fusion of silica and silicates or sand containing soda or lime and/or other chemicals and substances usually included in the manufacture of glass.

LCSWMA — The Lancaster County Solid Waste Management Authority, a municipal authority organized and existing under the Municipal Authorities Act of 1945, as amended.⁶

⁶. Editor's Note: See 53 P.S. § 301 et seq.

LCSWMA FACILITY — Any facility owned or operated by or on behalf of the LCSWMA.

LICENSED HAULER — A person who is in possession of all pertinent permits and licenses which may be required by the township and the LCSWMA for the collection, transportation, storage or disposal of solid waste or recyclable materials.

MULTIFAMILY UNIT — A property with four or more residential units, including, without limitation, apartment complexes, retirement homes and mobile home parks.

NEWSPRINT — Paper which has been used for the production of daily, weekly and special edition publications commonly known as "newspapers."

NONRESIDENTIAL UNITS — All commercial, municipal and institutional establishments, all community activities and all farms, excluding residential units and multifamily units.

OVERSIZED REFUSE ITEMS — Refuse which will not fit into refuse containers but which is not bulky waste, including small furniture, carpet, portable televisions and the like, but excluding tires and white goods.

PERSON — Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, governmental entity or agency or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

RECYCLABLE MATERIALS — Any material which would be regulated municipal waste but for source separation and which will be processed into raw materials or products which are beneficially reused.

RECYCLING — The separation, collection, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed of or processed as waste or the mechanized separation and treatment of solid waste and creation and recovery of reusable materials or energy.

RECYCLING CONTAINER — For residential units, refers to the container supplied by the township. For multifamily units and nonresidential units, the term "recycling container" shall refer to a receptacle which is constructed of plastic, metal or fiberglass and has handles of adequate strength for lifting.

REFUSE — All regulated municipal waste except the following categories of solid waste:

- (1) Construction/demolition waste.
- (2) Bulky waste.
- (3) Putrescible waste.
- (4) Uncompactible waste.
- (5) Special-handling waste.

- (6) Household hazardous waste.
- (7) Source-separated recyclable materials.
- (8) Unacceptable waste.
- (9) Oversized refuse items.

REFUSE CONTAINER — A receptacle which is constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting and having a tight-fitting lid capable of preventing entrance into the container by vectors, or a polyethylene bag which is specifically designed for storage and collection, is protected against animal damage and overloading so as to prevent littering or attraction of insects or rodents and has a holding strength capable of withstanding normal stresses until it is collected. With respect to residential units, the weight of a "refuse container" and its contents shall not exceed 30 pounds, nor shall its capacity exceed 32 gallons.

REGULATED MUNICIPAL WASTE — Any solid waste generated or collected within the township which is 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 any sludge which is not residual or hazardous waste from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include designated recyclable materials.

RESIDENTIAL UNIT — Any single-family detached, semidetached or townhouse dwelling or a dwelling unit within a multifamily building containing three or fewer units, excluding farms. When used in this Article or the township's policies and procedures, the term "residential unit" shall also refer to any multifamily unit or nonresidential unit that requests and receives approval from the township to use the collection services provided under the contract.

SCAVENGING — The uncontrolled or unauthorized removal of recyclable materials from the curbside.

SOURCE SEPARATE or SOURCE SEPARATION — The process of separating or the separation of recyclable materials from other solid waste at the location where they are generated for the purpose of recycling.

STEEL AND BIMETALLIC CANS — The ferrous metal food or beverage containers commonly known as "tin cans."

TOWNSHIP — The Township of West Earl, Lancaster County, Pennsylvania.

TOWNSHIP'S POLICIES AND PROCEDURES — The rules and regulations adopted and revised from time to time by the township which govern and pertain to the township's recycling program and the collection, storage or transportation of regulated municipal waste within the township.

WHITE GOODS — Large appliances, including clothes washers and dryers, dishwashers, refrigerators and freezers, stoves and ovens, hot-water heaters, air

conditioners and similar appliances.

YARD WASTE — All garden residues, grass clippings, shrubbery, leaves and sod.

§ 146-16. Mandatory recycling.

All persons within the township shall source separate designated recyclable materials.

§ 146-17. Collection, transportation and disposal.

Each person who owns or occupies a residential unit, multifamily unit or nonresidential unit within the township shall ensure that regulated municipal waste and designated recyclable materials generated at such residential unit, multifamily unit or nonresidential unit are source separated and collected, transported and disposed of in accordance with this Article, the township's policies and procedures and the LCSWMA rules and regulations.

§ 146-18. Residential units.

- A. Election. Each residential unit shall have one opportunity prior to the commencement date to elect whether to receive collection services under the contract. Persons who first occupy a residential unit after the commencement date shall have 30 days to elect whether to receive collection services under the contract after notification from the township of the contract and its terms. Residential units electing to receive such services shall be governed by the rules of Subsection B below. Residential units electing not to receive such services shall be governed by Subsection C below.
- B. Residential units electing to receive contract services (township customers). Collection services for contract waste and designated recyclable materials shall be provided to township customers by the contractor. Township customers shall not, during the term of the contract, enter into any independent agreement with any haulers for the collection of contract waste or designated recyclable materials.
 - (1) Each township customer shall prepare designated recyclable materials and contract waste for collection in accordance with the township's policies and procedures. Refuse containers shall be placed at the curbside in a manner such that the refuse containers shall not spill, tip or otherwise deposit refuse on the street or ground. Extra refuse containers shall be marked with an extra-service tag in accordance with the township's policies and procedures.
 - (2) Township customers shall ensure proper collection, transportation and disposal of regulated municipal waste which is not contract waste by either themselves transporting such materials to a facility or utilizing a licensed hauler to collect and transport such materials to a facility.
- C. Residential units electing not to receive contract services (other customers). Other customers shall provide proper collection, transportation and disposal of regulated municipal waste and designated recyclable materials generated at such residential units by utilizing a licensed hauler to collect and transport such materials to a

facility, except as provided in § 146-23 herein. Refuse containers shall be placed for collection by licensed haulers in a manner such that the refuse containers shall not spill, tip or otherwise deposit refuse on the street or ground.

§ 146-19. Multifamily units and nonresidential units.

- A. Each person who owns a nonresidential unit or a multifamily unit shall provide proper collection, transportation and disposal for regulated municipal waste and designated recyclable materials by using a licensed hauler to collect and transport such materials to a facility. With respect to contract waste and designated recyclable materials, a person who owns a multifamily unit or nonresidential unit may either request Township approval to receive the services under the contract or utilize a licensed hauler. If the owner of a multifamily unit requests and is approved to receive collection and disposal services under the contract, all dwelling units within such multifamily unit structure, complex or mobile home park shall receive collection and disposal services under the contract. [Amended 1-17-2003 by Ord. No. 165]
- B. Each person who owns or occupies a multifamily unit or nonresidential unit approved to receive services under the contract shall comply with the township's policies and procedures established for residential units and, notwithstanding the provisions of § 146-20B and C of this Article, shall source separate the recyclable materials designated in § 146-20A.
- C. Each person who owns a multifamily unit or nonresidential unit that does not receive services under the contract shall:
 - (1) Provide recycling containers at easily accessible locations for source separation of designated recyclable materials.
 - (2) Provide written instructions to all persons occupying each multifamily unit and nonresidential unit to ensure that all designated recyclable materials are source separated.
 - (3) Provide collection and transportation of source-separated designated recyclable materials at a frequency of not less than once per month.

§ 146-20. Designated recyclable materials.

- A. Each person who owns or occupies a residential unit shall source separate the following recyclable materials:
 - (1) Newsprint.
 - (2) Clear glass.
 - (3) Colored glass.
 - (4) Aluminum.
 - (5) Steel and bimetallic cans.

- (6) Yard waste, including leaves.
 - (7) White goods.
 - (8) Tires.
- B. Each person who owns or occupies a multifamily unit shall source separate the following recyclable materials:
- (1) Aluminum.
 - (2) Clear glass.
 - (3) Colored glass.
 - (4) Steel and bimetallic cans.
 - (5) Yard waste, including leaves.
 - (6) Tires.
 - (7) White goods.
- C. Each person who owns or occupies a nonresidential unit shall source separate the following recyclable materials:
- (1) Corrugated cardboard.
 - (2) High-grade office paper.
 - (3) Aluminum.
 - (4) Steel and bimetallic cans.
 - (5) Clear glass.
 - (6) Colored glass.
 - (7) Yard waste, including leaves.
 - (8) Tires.
 - (9) White goods.

§ 146-21. Placement and collection of regulated municipal waste and designated recyclable materials.

- A. All persons who own or occupy residential units, multifamily units or nonresidential units shall comply with the following requirements:
- (1) No regulated municipal waste or source-separated recyclable materials shall be placed at the curbside for collection more than 24 hours in advance of the scheduled time for collection.
 - (2) Regulated municipal waste or source-separated recyclable materials from residential units shall not be stored at the curbside prior to collection.

Regulated municipal waste or source-separated recyclable materials shall be stored in containers which shall prohibit the contents from being scattered by wind and rain and shall prohibit accessibility by rodents or other vermin.

- (3) Regulated municipal waste and source-separated recyclable materials from multifamily units and nonresidential units may be placed in bulk containers of suitable size, shape and material so as to prohibit the contents from being scattered by wind and rain and prohibit accessibility by rodents or other vermin.
- B. All licensed haulers shall ensure that collection of regulated municipal waste and source-separated recyclable materials shall comply with the following requirements:
- (1) Regulated municipal waste and source-separated recyclable materials shall be collected on the same day from residential units, and collection shall be made a minimum of once a month.
 - (2) Collection from residential units shall occur on weekdays between the hours of 5:00 a.m. and 6:00 p.m., prevailing time. Notwithstanding the foregoing, Saturday collection will be permitted if a holiday has occurred in the week preceding the Saturday on which collection is to be made or if a holiday will occur on the Monday or Tuesday of the week following the Saturday collection.
 - (3) No regulated municipal waste or source-separated recyclable materials shall be blown, scattered or deposited upon the ground in the process of collection or transportation.

§ 146-22. Licensing of haulers.

- A. All persons who desire to collect, transport, store, process or dispose of regulated municipal waste or designated recyclable materials within the township shall obtain a license from the township prior to performance of any such activities.
- B. Every person desiring a license under this Article shall make application to the township. Such application shall include the name and address of the person making application, proof of a valid license issued by the LCSWMA, identification of other municipalities which have licensed that person and whether any licenses have been revoked by the LCSWMA or any other municipality which requires licensing of haulers. All applications shall be accompanied by the annual license fee set by ordinance or resolution.⁷
- C. Applicants for a license to operate as a licensed hauler within the township shall demonstrate that:
 - (1) A valid license has been issued by the LCSWMA to the applicant.

⁷. Editor's Note: See Ch. A190, Fees.

- (2) The applicant's operation is in conformity in all respects with the rules and regulations of the Pennsylvania Department of Environmental Resources, the LCSWMA and all township ordinances and the township policies and procedures.
 - (3) Solid waste and designated recyclable materials shall be suitably enclosed or covered in all vehicles to be used so as to prevent roadside littering, attraction of vectors or the creation of other nuisances.
 - (4) All disposal of solid waste other than designated recyclable materials shall be at a facility.
 - (5) All designated recyclable materials shall be recycled and shall not be disposed of as waste.
 - (6) Liability and workers' compensation insurance has been obtained for the applicant's proposed operation in the township. A certificate of insurance demonstrating workers' compensation coverage at statutory limits and liability insurance with limits of at least five hundred thousand/one million dollars (\$500,000./\$1,000,000.) for bodily injury and \$100,000 for property damage shall be provided.
 - (7) All vehicles to be used have been properly licensed and inspected, and all drivers shall have valid operator's licenses for the class of vehicle operated by the driver.
- D. All licenses shall be issued for a period of one year.
- E. Licenses may be suspended or revoked by the township at any time for just cause. Just cause shall include but not be limited to where the licensed hauler:
- (1) Fails to maintain a valid license issued by the LCSWMA.
 - (2) Violates any of the provisions of this Article or the township's policies and procedures.
 - (3) Improperly disposes of designated recyclable materials or solid waste.
 - (4) Scavenges.
 - (5) Fails to perform in good faith all the covenants of any agreement entered into with township customers or other customers.
- F. Any person who has been denied a license or whose license has been suspended or revoked may appeal the denial, suspension or revocation to the Board of Supervisors. Such appeal shall be made, in writing, within 10 days after such decision has been made. The appeal shall be verified by an affidavit and shall be filed with the Township Secretary. The appellant or his representative shall have the right to appear and be heard, if such right is requested in the written appeal. The appeal shall be accompanied by the appeal fee established by resolution or

ordinance of the Board of Supervisors,⁸ and no appeal shall be considered complete without the payment of the appeal fee. A prompt decision on such appeal shall be made by the Board of Supervisors.

G. Licenses are not transferable to any other person.

§ 146-23. Approved haulers.

- A. With respect to contract waste and designated recyclable materials generated by township customers, no person other than the contractor shall collect, transport, store, process or dispose of such waste. With respect to regulated municipal waste other than contract waste which is generated by township customers and regulated municipal waste or designated recyclable materials which are generated by other customers, multifamily units or nonresidential units, no person other than a licensed hauler shall collect, transport, store, process or dispose of such waste. Notwithstanding the foregoing, township customers who generate waste other than contract waste and other customers may transport regulated municipal waste or designated recyclable materials generated by the township customer or other customer directly to an LCSWMA facility, provided that such direct transportation by the generator shall occur not more than twice a year.
- B. No person who generates, owns or possesses designated recyclable materials or regulated municipal waste shall, by contract for collection services or otherwise, cause, permit or assist in the collection, transportation, storage, processing or disposal of such waste by any person other than:
- (1) The contractor with respect to contract waste or designated recyclable materials generated by township customers.
 - (2) A licensed hauler with respect to regulated municipal waste other than contract waste generated by township customers and regulated municipal waste or designated recyclable materials generated by other customers, multifamily units and nonresidential units.
- C. Notwithstanding the provisions of § 146-18B and C and Subsections A and B of this section, any person who occupies a residential unit or a farm may request township approval to transport to an LCSWMA facility the regulated municipal waste which was generated at such person's residence or farm. Approval of any such request for an exception to the requirement of using a licensed hauler shall be within the sole discretion of the township and in any event shall not be granted absent a showing by such person that such regulated municipal waste shall be transported in a manner that is safe, sanitary and environmentally sound.
- D. Each licensed hauler that collects or transports regulated municipal waste or designated recyclable materials generated in any residential unit shall submit to the township, on forms provided by the township, reports concerning the sources, types, weight, etc., of the materials collected and shall comply with the LCSWMA

⁸. Editor's Note: See Ch. A190, Fees.

rules and regulations concerning the use of the LCSWMA manifest. All such reports shall be provided to the township monthly, no later than the 15th day of the month following the month in which the regulated municipal waste or designated recyclable materials were collected.

- E. Each licensed hauler who provides regularly scheduled service for the collection of regulated municipal waste from any other customer shall also collect designated recyclable materials from such other customer. Each such licensed hauler shall establish and shall notify each other customer of procedures and collection schedules for the source separation, segregation and packaging of regulated municipal waste and designated recyclable materials. Such procedure shall permit commingling of all aluminum, clear glass, colored glass and steel and bimetallic cans in a single recycling container. Each such licensed hauler shall schedule collections for tires and white goods at least twice annually and shall give each other customer at least 30 days' advance notice of the schedule for such collections. Newsprint shall be either bagged or bundled in accordance with instructions from the licensed hauler to each other customer.
- F. Recycling containers for residential units shall be provided by the township, which shall retain title to all such recycling containers. The contractor and licensed haulers shall distribute recycling containers to all of their residential unit customers in accordance with guidelines established by the township.
- G. Each licensed hauler shall give written notice to each customer of such licensed hauler's obligations under this Article and particularly the requirement to offer collection services for designated recyclable materials.
- H. No licensed hauler who collects, transports or disposes of designated recyclable materials or regulated municipal waste shall, by contract for such services or otherwise, cause, permit or assist in the storage, collection, transportation, processing or disposal of designated recyclable materials in a manner which treats such materials as regulated municipal waste or which is otherwise inconsistent with source separation or recycling. Any delivery of designated recyclable materials to an LCSWMA facility in accordance with the LCSWMA rules and regulations shall be deemed to satisfy the requirements of this subsection.
- I. All regulated municipal waste and designated recyclable materials generated or collected in the township shall be transported directly to a facility in accordance with the LCSWMA rules and regulations and without any intervening transfer, unloading, processing, sorting, salvaging, scavenging or reuse of any portion of any load of such regulated municipal waste and designated recyclable materials from the time of its collection until the time of its delivery to the facility.

§ 146-24. Illegal dumping.

No person shall store, process or dispose of any regulated municipal waste or designated recyclable materials except at a facility. Notwithstanding the foregoing, yard waste may be composted (in accordance with the township's guidelines) on the property on which such waste was generated or on other property licensed by the township.

§ 146-25. Collection service fees.

Fees for services provided by the township shall be charged to all township customers. The amount of fees and the schedule for payment of fees shall be as adopted by resolution or ordinance from time to time by the Board of Supervisors.⁹

§ 146-26. Scavenging.

From the time of placement for collection at the curbside of any designated recyclable materials other than leaves, all such designated recyclable materials shall be the property of the generator, the contractor or the licensed hauler who has contracted to provide collection, as provided in the contract. It shall be a violation of this Article for any person, other than the contractor or a licensed hauler, to collect or pick up or cause to be collected or picked up any such designated recyclable materials. Each such collection shall constitute a separate and distinct offense.

§ 146-27. Unauthorized collection.

It shall be a violation of this Article for any person unlicensed by the township to collect or pick up or cause to be collected or picked up any solid waste within the township. Each such collection shall constitute a separate and distinct offense.

§ 146-28. Existing contracts.

- A. Nothing in this Article shall be construed to impair the obligations of any existing contract.
- B. No renewal or modification of any existing contract and no new contract for the storage, collection, transportation, processing or disposal of regulated municipal waste or designated recyclable materials shall be entered into after the effective date of this Article unless such renewal or modification or new contract shall conform to the requirements of this Article and the township's policies and procedures.
- C. No contract which is entered into, renewed, extended, modified or assigned after the effective date of this Article shall provide for collection services to be performed after the commencement date for contract waste or designated recyclable materials generated by any township customer. This provision shall not apply to the contract between the township and the contractor. With respect to any contract which violates this subsection, such contract shall be deemed void, and the hauler that is a party to such contract shall reimburse to the applicable township customer any funds which have been paid for such collection services and shall not collect or attempt to collect any funds for such collection services.

§ 146-29. Powers of township.

The township shall have the power to establish service fees, record and reporting requirements and standards and procedures for the issuance, administration and

9. Editor's Note: See Ch. A190, Fees.

revocation of licenses, as deemed necessary, including, without limitation, application procedures, fees, standards and conditions for licenses, the fixing of a monetary bond, with or without surety, to secure the compliance by any licensed hauler with any such requirements, standards or procedures and any other matters deemed necessary or convenient by the township. In the event of suspension or revocation of any license which is issued by the township or the LCSWMA, the person whose license is suspended or revoked shall refund to each customer any prepaid fees.

§ 146-30. Unlawful activity.

It shall be unlawful for any person to violate or cause, permit or assist in the violation of any provision of this article or any provision of the township's policies and procedures. All unlawful conduct shall also constitute a public nuisance.

§ 146-31. Violations and penalties. [Amended 6-24-1996 by Ord. No. 116; 4-28-1997 by Ord. No. 129]

If the Board of Supervisors or the officer designated to enforce this article by the Board of Supervisors determines that a person has committed or permitted the commission of a violation of this article, the Board of Supervisors or such enforcement officer shall inform such person, in writing, of the violation, shall notify such person to cease the violation of this article and shall inform such person that he or she must pay a civil penalty to the township within the range of the amounts set forth below to settle the violation. The penalty for a first offense shall be not less than \$50 and not more than \$600; the penalty for a second offense shall be not less than \$100 and not more than \$600; and the penalty for a third or greater offense shall be not less than \$200 and not more than \$600. If such person fails or refuses to remit the penalty to the township within 10 days from the date of the written notice of the violation of this article, the township may commence a civil enforcement proceeding seeking penalties and costs for the violation of this article and/or may commence an action in equity. The township shall seek a judgment for the penalty previously imposed, together with additional daily penalties for continuing violations, plus all court costs, including the reasonable attorneys' fees incurred by the township in the enforcement proceedings. Each day that a violation continues shall constitute a separate violation, and each section of this article which is violated shall constitute a separate violation. If the defendant neither pays nor timely appeals the judgment, the township may enforce the judgment pursuant to the applicable rules of civil procedure.

§ 146-32. Persons liable.

For purposes of the obligations established by this article or the township's policies and procedures and for purposes of any fine, penalty, imprisonment or other sanction, the terms "person," "township customer," "other customer," "residential unit," "multifamily unit" and "nonresidential unit" shall:

- A. Include officers, directors and partners of any corporation or partnership or other legal entity having officers, directors or partners.
- B. Refer to and impose joint and several liability upon both:

- (1) The persons residing in or occupying any such residential, multifamily or nonresidential units.
- (2) The owner, landlord, condominium owner's association and/or agent of an owner, landlord or condominium owner's association of such premises.

§ 146-33. Injunctive relief.

In addition to any other remedy provided in this article, the township may institute proceedings to restrain any violation of or to require compliance with this article and/or the township's policies and procedures.

§ 146-34. Concurrent remedies.

The penalties and remedies set forth in this article are in addition to, not in lieu of, any fines, penalties or remedies provided in the township's policies and procedures. The existence or exercise of any remedy shall not prevent the township from exercising any other remedy provided under this article or the township's policies and procedures or available at law or equity, including the filing of a lien for the nonpayment of service fees.

§ 146-35. Prior ordinances.

This article is in addition to and not in lieu of Ordinance No. 60, enacted and approved December 30, 1986.¹⁰ Any ordinances other than Ordinance No. 60 which pertain to regulated municipal waste or recyclable materials are hereby repealed to the extent of any inconsistency with this article.

¹⁰. Editor's Note: See Art. I, Solid Waste Disposal, of this chapter.