

ORDINANCE NO. 87

TOWNSHIP OF BARRETT APPROVING SOLID WASTE MANAGEMENT PLAN; REGULATING DISPOSAL OF MUNICIPAL SOLID WASTE FROM THE MUNICIPALITY; REQUIRING DISPOSAL AT APPROVED SITE; PROVIDING FOR THE LICENSING OF SOLID WASTE COLLECTORS AND PROVIDING FOR REGULATIONS AND PENALTIES.

WHEREAS, this Municipality has regulated the collection of Municipal Solid Waste (as defined below) generated within its boundaries and now desires to adopt further regulations in order to improve the efficiency of such collection and disposal in the interest of the health, safety and welfare of its taxpayers and residents; and

WHEREAS, pursuant to the provisions of the Pennsylvania Solid Waste Management Act (the "Act") the Board of County Commissioners of the County of Monroe has caused to be prepared a County-wide Solid Waste Management Plan dated June, 1981 (the "County Plan") which was approved by the County on September 10, 1981 and which recommends that for the foreseeable future, the solid waste from this Municipality be disposed of by means of regional facilities operated for the County by its delegate, the Monroe County General Authority (the "Authority"); and

WHEREAS, the Authority subsequently received and approved a Resource Recovery Feasibility Study, dated June 28, 1982 (the "Study"), prepared by Nassaux-Hemsley, Inc., Engineering Consultants, which was also approved by the County on June 16, 1983, and a copy of which has been delivered to this Municipality; and

WHEREAS, the Study concludes that the County-wide solid waste disposal facility should consist of a resource recovery plant (the "Plant") located in the County, because it would be the most environmentally sound and also the most cost-effective method of disposing of Municipal Solid Waste within the County; and

WHEREAS, in order to obtain the environmental, economic and public health benefits from the Plant as discussed in the Study, it is necessary that commitments be obtained from the Municipalities within the County as to the use of the Plant

for the treatment of Municipal Solid Waste from such Municipalities; and

WHEREAS, this Municipality has the full authority under the applicable law to provide for the management of Municipal Solid Waste within its boundaries as hereinafter provided; and

WHEREAS, the form of this Ordinance has been approved by the County and it has been included in an amendment to the County's Solid Waste Management Plan which has been delivered to this Municipality for approval prior to filing with the Pennsylvania Department of Environmental Resources ("DER"); and

WHEREAS, the County has agreed to assist with the Authority's financing, but only after Ordinances similar to this have been enacted by a sufficient number of Municipalities in the County to make the construction of the Plant feasible.

NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED BY THE TOWNSHIP OF BARRETT as follows:

1. Approval of Plan. The County Plan, as amended, which includes the proposed form of this ordinance, is hereby approved, such documents together to constitute the Solid Waste Management Plan of and for this Municipality under the Act, and the proper officials of the County are hereby authorized to file such documents with DER for purposes of approval under the Act.

2. Definitions. Terms used in this Ordinance are defined as follows:

"Collector" - Any Person collecting or transporting Municipal Solid Waste for owners or occupants of property in the Municipality, including the Municipality itself if it undertakes the collection of Municipal Solid Waste directly, and any business or institution within the Municipality which generates sufficient Municipal Solid Waste to require disposal directly by its own employees and equipment.

"Municipal Solid Waste" - Any garbage, refuse, industrial lunchroom or office waste, and other material

including solid, or semi-solid material resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities, but not including any liquid waste or sludge, and other solid waste which is within the definition of "Municipal Solid Waste" as set forth in the Act, and which the Authority by its regulations is willing to accept at the Plant, but excluding: (i) all wastes which are defined by Federal or State Law or Regulations as hazardous waste or residual waste; and (ii) any waste which the generator thereof may dispose of for cash or other actual value.

"Person" - Any individual, partnership, association, corporation or governmental entity.

"Plant" - The energy and materials recovery facility proposed by the Authority, as it may be improved or enlarged, including all associated property and equipment.

3. Prohibitions:

(a) It is hereby declared to be a public nuisance and unlawful for any Person to accumulate upon any property in this Municipality Municipal Solid Waste or to dispose of it except in accordance with this Ordinance.

(b) It is hereby declared to be unlawful for any Person to act as a Collector in this Municipality without first obtaining a license from the Municipality pursuant to this Ordinance and such additional requirements as the Municipality may by appropriate action hereafter establish, which licenses, however, shall all require the licensees to comply with the provisions of this Ordinance. The Municipality hereby reserves the right to limit the number of such licenses.

4. Licenses:

(a) Each Collector's license shall be effective for a maximum of one calendar year, terminating on December 31st of each year for which it was issued, subject to renewal upon application. Collector's licenses shall not be transferable and are subject to revocation by the governing body of this Municipality. Any Person who possesses a valid license

issued by another Municipality of the County shall be entitled to a license conditioned only upon continuing compliance with this Ordinance.

(b) Application for a Collector's license shall be made on a form provided by the Municipality. The application must be accompanied by a license fee which is hereby established initially as \$10.00. The license shall be issued on a form provided by the Municipality. A licensee of an other Municipality, as provided in Subsection 4(a) above, may be issued a license if it supplies (i) proof of its holding a valid license in another Municipality, and (ii) sufficient additional information to fill out the permit, and (iii) payment of license fee.

(c) Upon receipt of said application by the Municipality, the governing body may examine the applicant and within a reasonable period thereafter shall either issue a license or refuse to issue a license to the applicant, stating the reasons for such refusal.

5. Management and Collection Requirements. All vehicles used for the collection and transportation of Municipal Solid Waste must comply satisfactorily with all applicable laws and regulations of the Commonwealth of Pennsylvania and shall have safety devices, including, but not limited to, the following: exterior rear-view mirror; back-up lights; four-way emergency flashers; easily accessible first-aid equipment; easily accessible fire extinguisher; and audible reverse and warning device.

If a crew member rides outside the cab of the collection vehicle for short trips, the vehicle shall be equipped with hand holds and platforms large enough to safeguard against slipping.

All vehicles used for the collection and transportation of Municipal Solid Waste shall be enclosed or adequate provisions shall be made for suitable covers; the vehicles shall be metal and leak-resistant.

Equipment used for the collection and transportation of Municipal Solid Waste shall be maintained in good condition and kept clean to prevent the propagation or attraction of vectors and the creation of nuisances.

The collection vehicle operator shall be responsible for immediately cleaning up all spillage caused by his operation, for protecting private and public property from damage resulting from his operations, and for creating no undue disturbance of the peace and quiet in areas where he operates.

6. Authority Operations and Charges. The Municipality has been advised by the Authority that the Authority intends to provide for the residents of the Municipality, a Plant which will be operated efficiently, economically by or for it and in accordance with all applicable laws and regulations, and also that the Authority will impose reasonable charges which will be uniform among all users of the Plant, except where any Municipality is not enforcing its License Ordinance, in which case the Authority, in addition to any other remedies, may impose a higher rate.

7. Operations by Licensed Collectors. Unless and until this Municipality subsequently determines to engage directly in the activities of a Collector, licensed Collectors shall be responsible for receiving Municipal Solid Waste from properties in the Municipality pursuant to contracts between them and the owners or occupants of property. As contemplated in the Plan, all Collectors shall dispose of all Municipal Solid Waste collected within the Municipality at the Plant, and in compliance with such reasonable regulations for the operation thereof as may be established by the Authority. Disposal at any other place shall be a violation of this Ordinance and cause for revocation of the Collector's license, except in special circumstances approved in advance by the Municipality and the Authority. All Collectors shall comply in their operations with the regulations of the Municipality and with all applicable law. Violation of such regulations or law shall be a cause for the revocation of the Collector's license upon such notice as the Municipality may determine to be reasonable.

8. Anti-Scavenging Provisions. No person shall handle, take or remove Municipal Solid Waste set out for collection unless licensed by the Municipality. When Municipal Solid Waste is discarded for pick-up and subsequent recycling, it shall become the property of the Monroe County General Authority. Any person who picks up said Solid Waste for his or her own use violates this Ordinance.

9. Private Dumps and Landfills Prohibited. No Person shall use or permit to be used any property owned or occupied by him within the Municipality as a public or private dump or landfill for Municipal Solid Waste, whether generated within the Municipality or elsewhere within the boundaries of the County.

10. Nuisances Prohibited. No Person shall accumulate Municipal Solid Waste upon any property owned or occupied by him in the Municipality except in such limited quantities and for such limited periods of time as shall insure that no air or visual pollution or health or fire hazard shall be created thereby, and any other accumulation on any premises is hereby declared to be a nuisance and is prohibited.

11. Penalties. Any Person who shall violate any provision of this Ordinance shall, upon conviction in a summary proceeding before a District Justice, be sentenced to pay a fine of not more than Three Hundred (\$300.00) Dollars, and, in default of payment of such fine, shall be committed to the County Jail for a period not exceeding thirty (30) days; each day's continuance of a violation of this Ordinance shall constitute a separate offense.

12. Abatement of Nuisances. In addition to the remedies provided in Section 11 above, any continued violation of this Ordinance which constitutes a nuisance in fact, or which in the opinion of the governing body of this Municipality constitutes a nuisance, may be abated by proceeding against the violator in a court of equity for relief.

13. Regulations. The collection and disposal of Municipal Solid Waste in the Municipality shall be subject to such further reasonable rules and regulations as may from time to time be promulgated by the governing body of the Municipality, including, but without limitation, regulations as to the form of license application, the terms of licenses and license issuance procedures; PROVIDED, HOWEVER, that no such rules and regulations shall be contrary to the provisions of this Ordinance or applicable law.

14. Amendments, Contract. The Municipality reserves the right to amend this Ordinance or repeal it at any time; provided that the requirement for use of the Plant for disposal of Municipal Solid Waste from the Municipality shall not be so amended or repealed without the prior express

approval of the Authority, so long as the Authority continues to have outstanding any indebtedness directly or indirectly related to the Plant. For the purposes of securing the Authority's financing, such requirement shall be deemed to be a contract between the Authority and the Municipality, which the Municipality agrees to enforce so that the Municipal Solid Waste from the Municipality will be available to provide a source of energy for the Plant. If in the future the Municipality itself becomes a Collector it agrees to deliver all Municipal Solid Waste so collected to the Plant.

15. Severability. If any sentence or part of this Ordinance is for any reason found to be illegal, such illegality shall not affect any of the remaining sentences or parts of this Ordinance, which shall continue to be fully operative as if the illegal part had not been enacted.

16. Repealer. All provisions of any other ordinance which are inconsistent with the provisions of this Ordinance are hereby repealed.

17. Effective Date. Section one shall become effective immediately upon enactment and all other sections shall become effective upon the later of the following: (i) the date of approval by DER of the Solid Waste Management Plan approved in Section 1 hereof; and (ii) upon delivery to the Municipality of the certificate of the Authority stating that the Plant is operational, and a feasibility report indicating the operation will be self-supporting, and stating that the tipping fee has been fixed by the Authority initially at a rate not exceeding \$15.00 per ton for a period of one year, provided that if the certificate is dated after 1984, the initial tipping fee shall be \$17.50 per ton.

ENACTED AND ORDAINED THIS 25th DAY OF JULY, 1984.

TOWNSHIP OF BARRETT

BY: Betsy Aginski
Chairman

[SEAL]

ATTEST:

James P. [Signature]
Secretary

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January 6, 1987

Monroe County General Authority
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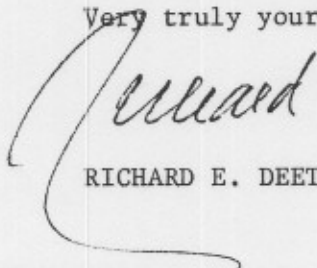
ATTENTION: Mr. Matthew D. Ewadinger,
Executive Director

Re: Township of Barrett, Ordinance No. 87

Dear Matt:

I am enclosing herewith a copy of the Barrett Township Solid Waste Ordinance which was adopted July 25, 1984 for your information and review.

Very truly yours,



RICHARD E. DEETZ

RED:kk
Enc.