

ERIE TOWNSHIP ORDINANCE NO. 83

An Ordinance enacted pursuant to Act No. 641 of the Public Acts of 1978, being MCL 299.401; MSA 13.29(1) to MCL 299.437; MSA 13.29(37), as amended, and in conformance with certain Michigan Department of Natural Resources (Resource Recovery Division, Solid Waste Management) Rules and Regulations, and in conformance with the Monroe County Solid Waste Management Plan originally approved by the Michigan Department of Natural Resources on September 23, 1983, as amended, and to provide for the public health, safety and general welfare of the persons and property of the Township of Erie, County of Monroe, State of Michigan, to regulate in a manner consistent with the Monroe County Solid Waste Management Plan, the development and operation of sanitary landfills and the use in connection therewith of solid waste haulers, in the Township of Erie; and to authorize penalties for violations of this Ordinance.

THE TOWNSHIP OF ERIE, COUNTY OF MONROE, STATE OF MICHIGAN, ORDAINS:

Section 1 - NAME

This Ordinance may be known and referred to as the Erie Township Sanitary Landfill Ordinance.

Section 2 - DEFINITIONS

For purposes of this Ordinance, the following definitions will apply:

Act 641 - Act No. 641 of the Public Acts of 1978, as amended, and as may be amended after this Ordinance, including all rules and regulations of the Michigan Department of Natural Resources, Resource Recovery Division, relating to solid waste management, as amended, and as may be amended after this Ordinance.

Ashes - the residue from the burning of wood, coal, coke, refuse, wastewater sludge, or other combustible materials.

Garbage - rejected food wastes including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit, or vegetable.

Landfill or Sanitary Landfill - any tract of land or land and buildings in combination, developed, designed and operated as a disposal area for the disposal of solid waste by the receipt of, disposal of, depositing of, or dumping of any rubbish or garbage, or other solid waste, onto or into the ground.

Monroe County Solid Waste Management Plan - the Monroe County Solid Waste Management Plan approved by the Michigan Department of Natural Resources on September 23, 1983, as amended, and as may be amended after this Ordinance.

Rubbish - nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste, including paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, or litter of any kind that may be a detriment to the public health and safety.

Slag - the non-metallic product resulting from melting or smelting operations for iron or steel.

Solid Waste - garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludges, solid commercial and solid industrial waste, and animal waste, but does not include human body waste, liquid or other waste regulated by statute, ferrous or nonferrous scrap directed to a scrap metal processor or to a reuser of ferrous or nonferrous products, and slag or slag products directed to a slag processor or to a reuser of slag or slag products.

Solid Waste Hauler - an individual, sole proprietorship, partnership, association, corporation, county, state, or municipality, or an agency of a county, state, or municipality, which owns or operates a solid waste transporting unit.

Solid Waste Transporting Unit - a container which may be an integral part of a truck or other piece of equipment used for the transportation of solid waste.

Township - the Township of Erie, located in the County of Monroe, State of Michigan.

### Section 3 - PERMITS

There shall be no permit required to be issued by the Township of Erie in order for a landfill to be developed or operated. No landfills may be developed or operated within the Township unless the developer or operator of said landfill has been issued by the Michigan Department of Natural Resources a license or permit as might be required under Act 641 or the Monroe County Solid Waste Management Plan.

### Section 4 - SOIL ADDITION, MOVEMENT, GRADING OR LEVELING, POND CONSTRUCTION AND QUARRY EXCAVATION

A landfill shall not be construed to include soil addition, movement, grading or leveling, or quarry excavation or pond construction; and further, does not include the filling of land with topsoil, sand, gravel, clay, muck, stones, rocks, aggregates, or similar such materials; all of which are governed by Erie Township Ordinance No. 78-A6. Soil addition, movement, grading or leveling, pond construction and quarry excavation on the site of the landfill requires compliance with Erie Township Ordinance No. 78-A6.

### Section 5 - HOUSEHOLD AND FARMLAND WASTE

This Ordinance shall not be construed to prohibit an individual from disposing of solid waste from the individual's own household upon that individual's own land as long as the disposal does not create a nuisance or hazard to health. Solid waste accumulated as a part of an improvement or the planting of privately owned farmland may be disposed of on the property if the method used is not injurious to human life or property and does not unreasonably interfere with the enjoyment of life or property.

### Section 6 - BOND

All developers and operators of landfills must submit and file a bond to cover the cost of closure and postclosure monitoring and maintenance of the landfill after capacity has been reached or operations have otherwise terminated. This bond shall be in addition to any bond required by the Michigan Department of Natural Resources, and must be filed prior to any development or operation of the landfill. The bond submitted for the landfill shall be in an amount equal to \$4,000.00 per acre of the landfill as licensed by the Michigan Department of Natural Resources, but in no event shall said bond be in an amount that is less than \$20,000.00 or more than \$500,000.00. The bond for

the landfill shall provide assurance for the maintenance of the finished landfill site for a period of ten (10) years after the landfill or any approved portion thereof is completed.

Certificates of deposit, surety or cash bonds are permitted. A developer or operator who elects to use a certificate of deposit as a bond shall receive any accrued interest on that certificate of deposit upon release of the bond by the Township. A developer or operator who elects to post cash as a bond shall accrue interest on that bond at the annual rate of six percent (6%), to be accrued quarterly, except that the interest rate payable to a developer or operator shall not exceed the rate of interest accrued on the Township fund where the bond is held for the quarter in which an accrual is determined. Interest shall be paid to the operator or developer upon release of the bond by the Township. Any interest accrued greater than six percent (6%) shall be used by the Township for administration under this Ordinance. If a cash bond is posted, the developer or operator may post all of it or submit a minimum initial cash payment of \$10,000.00, and defer the balance of the bond by paying to the Township every six (6) months an amount equal to \$1,000.00 per acre of the licensed landfill, or any approved portion thereof, until a bond equivalent to \$20,000.00 or \$4,000.00 per acre, whichever is more, is attained.

After closure, the developer or operator of the landfill, who has accomplished closure and maintenance approved by the Michigan Department of Natural Resources and/or Monroe County Health Department in accordance with Act 641 and this Ordinance, may annually request a ten percent (10%) reduction in the bond.

The Township may utilize the bond acquired under this Section for the closure and postclosure monitoring and maintenance of the landfill if the developer or operator fails to comply with the closure and postclosure monitoring and maintenance requirements of Act 641, this Ordinance or the Michigan Department of Natural Resources and/or Monroe County Health Department.

#### Section 7 - HOURS OF OPERATION

The Township is hereby empowered to limit the hours of development and operation of a landfill, by resolution of the Township Board, but no limitation shall be more restrictive than 7:00 a.m. through 6:00 p.m., five (5) days per week. If no resolution of the Township Board is passed subsequent to the effective date of this Ordinance, there shall be no limiting hours of operation imposed by the Township.

## Section 8 - INSPECTION

The Township shall have the right to employ such verification procedures as are necessary to insure compliance with this Ordinance. Officers, agents and employees of the Township shall have the right to freely inspect, without prior notice, and without limitation, the landfill and solid waste transporting units.

## Section 9 - HAUL ROUTES

The Township is hereby empowered to designate particular haul routes for the solid waste haulers that utilize the landfill, by resolution of the Township Board. If no resolution is passed subsequent to the effective date of this Ordinance, there shall be no particular haul routes designated by the Township. In either case, the haul routes must meet the approval of the Monroe County Road Commission as well as any restrictions imposed by Act 641, the Michigan Department of Natural Resources, and/or the Monroe County Health Department.

## Section 10 - OPERATOR ON DUTY

The developer or operator shall employ a knowledgeable operator to be on duty at the landfill at all times while the landfill is open. The operator will complete all reports required by this Ordinance and Act 641, and by the Michigan Department of Natural Resources and/or the Monroe County Health Department. The operator will inspect each and every load to assure that all matters relating to it comply with this Ordinance and Act 641, and with the Michigan Department of Natural Resources and/or the Monroe County Health Department.

## Section 11 - NUISANCES

The landfill developer or operator, and the solid waste hauler, are imposed with the duty to control any and all possible nuisances associated with the landfill and a solid waste transporting unit, including but not necessarily limited to blowing paper, littering, dust, mud on public roadways, noise, pollution, odors, pest animals, vectors, equipment vibration, and any other similar nuisances that may arise. It shall be a violation of this Ordinance for any landfill developer or operator, or solid waste hauler, to cause or permit to exist, any blowing paper, littering, dust, mud on public roadways, noise, pollution, odors, pest animals, vectors, equipment vibration, and any other similar nuisances that might arise in connection with the landfill or a solid waste transporting unit.

Section 12 - CORRESPONDENCE, REPORTS AND DATA

Any and all correspondence, reports, or data submitted to or received from the Michigan Department of Natural Resources and/or the Monroe County Health Department, concerning the landfill or any solid waste hauler operations, shall be submitted in duplicate to the Township. The developer or operator shall agree in writing, if necessary, to direct the Michigan Department of Natural Resources and/or the Monroe County Health Department to send a duplicate of all correspondence, reports or data, either sent or received by them, concerning the landfill or the solid waste hauler operations, to the Township.

In addition to the correspondence, reports or data submitted to or received from the Michigan Department of Natural Resources and/or the Monroe County Health Department, the following special reports or data must be submitted on a monthly basis to the Township, in order to verify or help verify the tipping fee percentage charge provided for in Section 13. The developer or operator of a landfill must submit monthly reports to the Township, pertaining to the previous month, consisting of the following:

- A. As to each load received in the landfill:
  1. The date received;
  2. The approximate quantity of solid waste in yards deposited;
  3. The name and address of the solid waste hauler;
  4. The amount of fees charged by the operator for each load; and
  5. Such other and reasonable information as may be determined necessary by the Township.
- B. Monthly totals of loads received in the landfill, with a sub-total for loads actually assessed a tipping fee and a separate sub-total for loads not assessed a tipping fee.
- C. Monthly totals of the quantities of waste deposited in the landfill.
- D. Monthly totals of charges collected for the loads actually assessed a tipping fee.

All of the preceding month's correspondence, reports, special reports and data as required above, shall be submitted to the Township no later than the 10th day of the next month.

#### Section 13 - TIPPING FEE PERCENTAGE

The amount of three percent (3%) of the deposit charges or tipping fees for each deposit made shall be tendered to the Township no later than the 10th day of the month following the month when the materials were deposited in the landfill, along with the monthly correspondence, reports, special reports and data required. The tipping fee shall mean that fee charged by the landfill operator to solid waste haulers to make a deposit at the landfill. Outside solid waste haulers shall mean a solid waste hauler which is not owned by, or a part of, or connected in a business manner, with the landfill operator. The tipping fee for outside solid waste haulers shall be the amount actually charged by the landfill operator. The tipping fee for in-house solid waste haulers, or those haulers which are owned by, or a part of, or connected in a business manner with the operator of the landfill, shall be that amount that would have been charged to an outside solid waste hauler. That amount shall be determined by comparing the tipping fees actually charged the outside solid waste haulers during the same month and under the same circumstances. If during said month no outside solid waste haulers made any deposits, the tipping fee for in-house solid waste haulers shall be the prevailing tipping fee in the Monroe County, Michigan area and/or the Lucas County, Ohio area. Therefore, three percent (3%) of the tipping fee per deposit shall be charged by the Township regardless of whether or not the landfill operator actually charges any tipping fee. The Township Board may reduce the percentage going to the Township by resolution of the Township Board.

#### Section 14 - EASEMENTS

The developer or operator of a landfill must grant to the Township easements for ingress and egress over the entire landfill area for the period of time until the bond required in this Ordinance is released. These easements must be in written recordable form and must be received by the Township prior to any development or operation of the landfill.

#### Section 15 - REPEAL

Erie Township Ordinance No. 28, as amended by Erie Township Ordinance No. 37, and as may have been otherwise amended, is

hereby repealed and all Ordinances or parts of Ordinances in conflict with this Ordinance are to the extent of such conflict hereby likewise repealed.

Section 16 - SEVERABILITY

This Ordinance, and the various parts, sentences, paragraphs, sections, subsections, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance, and each part, sentence, paragraph, section, subsection, phrase and clause thereof, irrespective of the fact that either one or more parts, sentences, paragraphs, sections, subsections, phrases or clauses are declared invalid.

Section 17 - VIOLATION-PENALTY

Subsection 1. Any person, firm, partnership or corporation who shall violate, or neglect or refuse to comply with, or who resists the enforcement of, any of the provisions of this Ordinance, on conviction thereof, shall be punished by a fine not to exceed \$500.00 and costs of prosecution, or by being imprisoned in the County Jail for not more than ninety (90) days, or both such fine and imprisonment, in the discretion of the Court. Each day that a violation is permitted to exist shall constitute a separate offense.

Subsection 2. Any continued violation of this Ordinance is declared to be a public nuisance per se, and may be abated by order of any Court of competent jurisdiction.

Section 18 - EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after it, or a summary of it, has been published in a newspaper of general circulation in the Township of Erie.

I, Margaret M. Dusseau, Township Clerk of the Township of Erie, do hereby certify that this Ordinance was adopted by the Township Board of the Township of Erie, Monroe County, Michigan,



at a regular meeting of the Township Board held at the Erie Township Hall, Erie Township, Michigan, on the 24th day of September, 1985.

Vote on said Ordinance, 5 members being present and 0 members being absent, was as follows:

		<u>Members' Last Names</u>
Voting in favor:	<u>5</u>	Wright
		Dusseau
		Norts
		Cousino
		Lewis
Voting Against:	<u>0</u>	
Abstained:	<u>0</u>	
Absent:	<u>0</u>	

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Margaret M. Dusseau  
MARGARET M. DUSSEAU,  
Erie Township Clerk

ATTEST:

LeRoy Wright  
LeROY WRIGHT  
Erie Township Supervisor

I, Margaret M. Dusseau, Township Clerk of the Township of Erie, do hereby certify that a summary of this Ordinance was published on the 1st day of October, 1985, in the Monroe Evening News, Monroe County, Michigan, a newspaper of general circulation in the Township of Erie, within thirty (30) days of adoption of the Ordinance.

Margaret M. Dusseau  
MARGARET M. DUSSEAU,  
Erie Township Clerk

ATTEST:

LeRoy Wright  
LeROY WRIGHT  
Erie Township Supervisor

Adoption Date: September 24, 1985

Effective Date: October 31, 1985

Publication Date: October 1, 1985