

ORDINANCE NO. 89

AN AMENDMENT TO THE AMITY TOWNSHIP ZONING ORDINANCE OF 1968, AS AMENDED, TO ESTABLISH CONDITIONAL USE PROCEDURES GENERALLY AND WHEN CONSIDERING APPLICATIONS FOR USE OF LAND AS A LANDFILL, SANITARY OR OTHERWISE; TO PERMIT LANDFILLS AS A CONDITIONAL USE IN LIMITED INDUSTRIAL DISTRICTS; AND TO ESTABLISH STANDARDS APPLICABLE TO THE ESTABLISHMENT, MAINTENANCE AND OPERATION OF LANDFILLS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors to the Township of Amity that the Amity Township Zoning Ordinance of 1968, as amended, be further amended in the following respects:

Section 1. Article VIII

Section 801 is amended to read as follows:

16. Any of the following uses, when authorized by the Board of Supervisors as a conditional use, subject to the provisions of Article XVII:

- a. Landfills, sanitary or otherwise, when operated by a municipality, provided that the service area shall include Amity Township, and that the landfill shall serve the residents of Amity Township on an equal basis with its other customers.

Section 2. A new article is added to read:

ARTICLE XVII

CONDITIONAL USES

SECTION 1700. GENERAL

Where this Ordinance has provided for conditional uses to be granted or denied by the Board of Supervisors, the procedures outlined in this article should be adhered to, and the Board of Supervisors shall give consideration to such conditional uses in accordance with the criteria set forth herein.

SECTION 1701. APPLICATIONS

Application for conditional use shall be made to the Board of Supervisors, and shall be accompanied by the material and data as required by this Ordinance, along with such other written and graphic material as may be required by the Board of Supervisors to adequately make the determination set forth herein. All applications, along with the material and data required by this Ordinance, shall be submitted in quadruplicate, and shall be accompanied by such fees as shall be set forth in a resolution of the Board of Supervisors, in an amount sufficient to cover all Township costs. The Board of Supervisors shall submit the application to the Amity Township Planning Commission for review. The Planning Commission shall complete its review within forty-five (45) days after receipt thereof.

SECTION 1702. PUBLIC HEARINGS

Within sixty (60) days after the filing of an application, the Board of Supervisors shall hold a public hearing pursuant to public notice as provided in the Pennsylvania Municipalities Planning Code.

SECTION 1703. DETERMINATION BY THE BOARD OF SUPERVISORS

The Board of Supervisors shall, within ninety (90) days of the date of application, render a final decision, and shall by official written communication to the applicant either:

- a. Approve the application as presented;
- b. Disapprove the application as presented; or
- c. Approve the application subject to specified conditions.

Failure to act within the said period shall be deemed to be a grant of approval of the application.

SECTION 1704. GENERAL STANDARDS

In considering any conditional use permitted by this Ordinance, the Board of Supervisors shall, among other things:

a. Assure itself that the proposed use is consistent with the spirit, purpose and intent of the Zoning Ordinance.

b. Determine that the proposed use will not substantially injure or detract from the use of the neighborhood property or from the character of the neighborhood, and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded.

c. Determine that the proposed use will serve the best interests of the Township, the convenience of the community (where applicable), and the public health, safety and welfare.

d. Consider the effect of the proposed use upon the logical, efficient and economical extension of public services and facilities such as public water, sewers, police and fire protection, and public schools, and assure adequate arrangements for sanitation in specific instances.

e. Be guided in its study, review and recommendation by sound standards of land development practice where applicable.

f. Guide the development of state and county highway frontage insofar as possible so as to limit the total number of access points and to encourage the frontage of buildings on parallel marginal roads or on roads perpendicular to the highway.

g. Impose such conditions, in addition to those required, as are necessary to assure compliance with the general purpose and intent of the Zoning Ordinance, which conditions shall include, but are not limited to, harmonious design of buildings, planting and its maintenance as a sight or

sound screen, and minimization of noxious, offensive or hazardous elements.

h. Weigh each case on its own merits, separately, based upon pertinent information presented or known to the Board, and without regard to any previous case.

SECTION 1705. LANDFILLS AS A CONDITIONAL USE.

1. APPLICATIONS

An applicant wishing to establish and operate a landfill shall present the following with its application:

a. A topographical drawing, prepared by a professional engineer registered in the State of Pennsylvania, to a scale no greater than 1" -- 100 feet, showing:

- (1) Location of site relative to public roads;
- (2) Owners of adjacent properties;
- (3) Proposed fencing and improvements;
- (4) Proposed screening;
- (5) Cross sections showing the existing grades and the proposed grades upon completion and closure of the landfill;
- (6) Landfill areas within the landfill site, to include staging of landfill development and the location of haul roads and access roads;
- (7) Location of equipment cleaning and tire cleaning areas; and
- (8) Location of weighing scales, fire fighting equipment and all facilities.

b. The names and current addresses of any and all persons who own any interest, real or equitable, in the real estate which is the subject of the application;

c. The names and current addresses of any and all persons having any ownership interest in any corporations or other business entities which may be set forth in answers to b above, where such persons possess an ownership interest of ten per cent (10%) more;

d. The names and current addresses of any and all persons having any interest in the operation or proposed operation, maintenance and use of the real estate in question as a landfill;

e. The names and current addresses of any and all persons having any ownership interest in any corporations or other business entities which may be set forth in answer to d above, where such persons possess an ownership interest of ten per cent (10%) or more; and

f. The identities and qualifications of personnel designated to manage the proposed facility, together with their intended responsibilities.

g. All requirements of the Pennsylvania Solid Waste Management Act and regulations and standards of the Department of Environmental Resources relating to solid waste processing and disposal systems are incorporated herein by reference, and the applicant shall be required to submit any and all plans, applications, data, materials, studies and information to the Board of Supervisors as is required to be submitted to the Pennsylvania Department of Environmental Resources pursuant to said Act, regulations and standards. All such materials shall

be certified by the applicant to be true and correct copies of original materials filed with that department.

h. Statements indicating expected useful life of the landfill site and the condition and proposed uses of said site upon termination of operation, including, but not limited to, any limitations on future uses due to decomposition gases.

i. An access road survey, which shall include the following:

(1) statement as to the estimated number of vehicles weighing over twenty thousand (20,000) pounds, loaded, which are expected to use the landfill site on a daily basis during the first two (2) years of operation; and

(2) a plan indicating all roads anticipated to be used as access roads, as defined herein.

j. Statement of applicant's prior experience, if any, in operating landfills.

k.(1) An environmental assessment statement, which shall include the following:

(A) A description of the proposed landfill and facilities;

(B) A physical description of the environment affected including, but not limited to, summary technical data and maps and diagrams adequate to permit an assessment of potential environmental impact by commenting agencies and the public. Highly technical and specialized analyses and data should be attached as appendices or footnoted with adequate bibliographic references;

(C) The interrelationships and cumulative environmental (including economic) impact of the proposed landfill and other landfills shall be stated with adequate technical analysis;

(D) The sources of data used to identify, quantify or evaluate any and all of environmental consequences must be expressly noted;

(E) The relationship of the proposed landfill to land use plans, policies and controls for the affected area, including a statement as to how the proposed landfill may conform or conflict with the objectives and specific terms of existing or proposed federal, state, county and township land use plans, policies and controls;

(F) An analysis of:

(i) The primary and secondary effects of the landfill and its capacity to stimulate or induce changes in patterns of social and/or economic activities;

(ii) The impact on existing community facilities and activities, changes in natural conditions, etc.; and

(iii) The effect on natural and cultural features such as streams, mountains, historic sites, landmarks, principal roads, lakes and towns;

(G) Specific data relating to the impact of the landfill on local vehicular traffic;

(H) Specific data relating to the impact of the landfill on local water supplies, streams and rivers;

(I) Specific data relating to the impact of the landfill on natural and man-made local storm drainage facilities and areas;

(J) Specific data relating to the impact of the landfill on the existing flood-hazard areas of the Township, including details of any measures or precautions which may have to be taken in order to provide adequate flood control in the Township;

(K) A statement of any probable adverse environmental effects which cannot be avoided (such as water or air pollution, undesirable land use patterns, damage to life systems, congestion, threats to health or other consequences adverse to the environment). Included for purposes of contrast should be a clear statement of how other avoidable adverse effects will be mitigated;

(L) The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity. This section should contain a brief discussion of the extent to which the proposed action involves short-term environmental gains at the expense of long-term losses, or the converse, and a discussion of the extent to which the proposed action forecloses future options. In this context, the words short-term and long-term should be viewed in terms of the environmentally significant consequences of the proposed action;

(M) The aesthetic impact of the proposed action including its impact upon visual quality of the surrounding community;

(N) An analysis of the success and/or failure of similar projects, if the proposed project is of a nonconventional nature. Determination of the conventional or nonconventional character of the proposed project will be made by the Township engineer;

(O) A statement of any adverse effects on employment, taxes and property values;

(P) A statement of any effects on desirable community growth; and

(Q) A statement describing the location and impact of the project on nearby recreation areas.

(2) In developing the above data, applicant shall convey the required information succinctly in a form easily understood both by members of the public and by public decisionmakers, giving attention to the substance of the information conveyed rather than to the particular form, or length, or detail of the statement. Statements should indicate, at appropriate points in the text, any underlying studies, reports, and other information obtained and considered by the applicant in preparing the statement. Care should be taken to insure that the statement remains an essentially self-contained instrument capable of being understood without the need for cross reference.

(3) Each environmental statement should utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on the environment. Application of such an approach should help assure a systematic evaluation of reasonable alternative courses of action and their potential social, economic, and environmental consequences.

2. REQUIREMENTS AND STANDARDS APPLICABLE TO LANDFILLS

Prior to approving a site for use as a landfill, the Board of Supervisors shall require that:

a. Any application for a landfill shall be in compliance with the requirements of the Pennsylvania Department of Environmental

Resources and, prior to the onset of operation of such landfill, a permit must be obtained from Pennsylvania Department of Environmental Resources for said operations;

b. The landfill shall be located so that safe and adequate access is available over public roads at all times. In doing so, any access road, as defined herein, to the proposed landfill shall be a minimum of twenty-four (24) feet in width and paved with bituminous or concrete materials having a surface and base course of sufficient depth to withstand traffic loads, determined by the number and weight of trucks anticipated in a daily operation of the proposed landfill. The Board of Supervisors may further require that the cost of improvement of access roads to provide this standard of access shall be assessed against the applicant either by requiring contribution of monies sufficient to pay for the improvements to the access roads, or by assessing dumping fees on the operation of said landfill sufficient to pay for the improvements to the access roads. Applicant shall give written assurance that, within one (1) year of the termination of the landfill operation, all access roads will be restored, if necessary, to their condition as existing immediately prior to the commencement of the operation as determined by the Township engineer.

c. The landfill site shall be properly fenced along the interior boundary of the buffer zone to prevent blowing papers and other refuse on adjoining properties. The fence shall be metal wire mesh constructed of No. 9 gauge wire woven in a two (2) inch mesh in full conformance with the American Society of Testing Materials specification A 491-71. The surface height of the fence shall be eight (8) feet, plus an additional minimum of three (3) strands of barbed wire, installed, at least

six (6) inches apart, onto brackets affixed to the top of the fence at an angle forty-five (45) degrees from vertical. The fence shall contain, at all entrances, gates which are locked except during business hours. In addition, temporary litter control fences shall be installed, in such a manner as to prevent litter from dispersing onto the landfill site, no more than seventy-five (75) feet downwind from the immediate operating area. The landfill site shall be adequately policed, and all litter shall be collected daily and incorporated into the landfill.

d. The landfill shall not be located on land mapped by the Soil Conservation Service as having either a high water table or seasonal high water table or which is subject to flooding.

e. The landfill site shall be graded and provided with drainage facilities to minimize runoff, prevent erosion, and prevent collection of standing water.

f. Burning and scavenging shall not be permitted.

g. The landfill shall be located a minimum of four hundred (400) feet from any other zoning district boundary line, and at least five hundred (500) feet from any existing residence or any residence under construction at the time of application.

h. The landfill shall be located a minimum of two hundred (200) feet from any street not located within the landfill site and two hundred (200) feet from any adjoining property line.

i. Maximum lot size shall be seventy-five (75) acres.

j. The landfill, as well as all improvements erected on the landfill site, shall be screened from view from the adjoining property boundaries, by a buffer zone of a minimum of two hundred (200) feet

between said site and improvements, and any adjoining property, in which shall be placed a planting screen consisting of a variety of evergreen trees in a solid double row with a minimum height of nine (9) feet so as to create a visual screening of said site and improvements from all adjoining real property.

k. Emission of unpleasant gases or odorous matter shall not be permitted in such quantities as to be offensive outside the boundaries of the landfill site. The sound pressure level of any operation within the landfill site shall not exceed, at any point along the landfill site boundary, the decibel levels in the following octave bands:

<u>OCTAVE BAND</u> (cycles per second)	<u>Maximum Permitted Sound Level</u> (Decibels)
10 to 600	45
600 to 2400	33
2400 to 4800	30
Above 4800	25

l. The grade of the landfill shall never exceed the highest point of natural elevation within the landfill site prior to commencement of the operation. The final grading of the landfill shall be done in a manner so that the landfill site is left in a useful condition. Owners and operators of the proposed landfill site are encouraged to provide for the future dedication of properties used for landfill purposes to the Township for park and recreational facilities.

m. Buildings shall be constructed on the landfill site to house equipment when not in use.

n. Necessary measures shall be taken to prevent and extinguish fires. Water at adequate volume and pressure, as determined by the Board of Supervisors, to supply water hose streams, or foam producing

equipment or water spray systems, as well as necessary equipment, compatible with local fire department equipment, such as hoses, nozzles and pumps for minimizing fire hazards, shall be available at the site. All equipment and buildings shall be equipped with functional fire extinguishers.

o. The landfill shall contain an on-site scale, and all solid waste delivered to the landfill site shall be weighed and recorded pursuant to the requirement of this Article and the Amity Township Landfill Ordinance.

p. A certified copy of all reports, data, plans and other material or information required to be submitted to Pennsylvania Department of Environmental Resources shall be submitted to the Board of Supervisors.

q. A tire cleaning area shall be provided on the access road within the landfill site. All tires on all trucks leaving the landfill site shall be cleaned. Runoff from the tire cleaning area shall be controlled in accordance with the provisions of the Pennsylvania Storm Water Management Act.

t. Landfill liners, when required by the Pennsylvania Department of Environmental Resources, shall be constructed of synthetic flexible polymeric material having a minimum field thickness of sixty (60) mils.

s. An equipment cleaning area shall be provided on the landfill site. All equipment used to grade and compact solid waste in the landfill shall be cleaned daily to prevent odors, vectors, and other nuisances. All drainage from equipment cleaning areas shall be managed so

as to prevent water pollution, and shall be discharged to a sanitary sewer system or other facilities approved by the Board of Supervisors.

t. Groundwater monitoring wells shall be required and shall be located both along the interior boundary lines of the buffer zone and outside the boundary lines of the landfill site as determined by the Township engineer. The water in each well shall be tested by the operator monthly for all items listed in the regulations of the Pennsylvania Department of Environmental Resources, and for all other additional items as may be required by resolution of the Board of Supervisors. The test results shall be submitted, in writing, to the Board of Supervisors within ten (10) days after the date of each test.

u. All facilities, equipment and personnel shall be equipped with both an internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel, and a device immediately available at the scene of operations, such as a telephone or a hand-held two way radio, capable of summoning emergency assistance from local police and fire departments.

v. The landfill site shall have at least one (1) emergency access entrance, which shall be locked except when used during an emergency situation. The operator shall provide a key to this entrance to the Board of Supervisors.

w. Sanitary toilet facilities, as approved by the Board of Supervisors, shall be constructed and made available for use by persons on the landfill site.

3. INSPECTION OF SITUS

The Board of Supervisors shall, from time to time, cause its authorized representatives to inspect the landfill site to assure continued

compliance with plans, specifications, regulations and procedures set forth in this Ordinance. It shall be the duty of the operator to make the landfill site available for inspection at all times. All expenses relating to said inspection shall be borne by the operator.

4. HAZARDOUS WASTE

Disposal of hazardous waste, as defined by the Pennsylvania Solid Waste Management Act, on any landfill site within the Township is hereby prohibited, unless a certificate of public necessity has been obtained in accordance with the requirements established by the Pennsylvania Solid Waste Management Act. Once said certificate has been obtained, all provisions of this Article shall apply to said disposal.

5. RESTRAINING VIOLATIONS

In addition to any other remedies provided in this Ordinance, the Board of Supervisors may institute an action in equity in the Court of Common Pleas of Berks County for an injunction to restrain a violation of this article or to mandate corrective action necessary to remedy any violation of the rules, regulations and standards of this article.

6. DEFINITIONS ADOPTED BY REFERENCE

The definitions of the Pennsylvania Solid Waste Management Act, Act 97, adopted July 7, 1980, P.L. 380, as amended, 35 P.S. 6018.101, et seq., and of the Regulations of the Pennsylvania Department of Environmental Resources, Chapter 25 Pennsylvania Code, Section 75.1, et seq., as amended from time to time, are incorporated herein by reference as if set forth herein at length. In addition, the following definitions shall apply:

a. "Access Road" - all roads, either public or private, within the Township which are used by vehicles weighing over twenty thousand (20,000) pounds, loaded, to transport solid waste to a landfill.

b. "Scavenging" - the uncontrolled removal of material from a landfill site.

c. "Landfill" - a disposal facility or part of a facility where solid waste is placed in or on land.

d. "Disposal Facility" - a facility or part of a facility, at which waste is placed into or on any land or water and at which waste will remain after closure.

e. "Facility" - all land, structures, and other appurtenances or improvements on a property where solid waste is processed, stored, or disposed.

f. "Hazardous Waste" - any garbage, refuse, sludge from an industrial or other waste water treatment plant, sludge from a water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities, or any combination of the above, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under §402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880) or source special nuclear, or by-product material as defined by the U.S. Atomic Energy Act of 1954, as amended (68 Stat. 923), which because of its quantity, concentration or physical, chemical, or infectious characteristics may:

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

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

g. "Municipality" - a city, borough, incorporated town, township, or county or any authority created by any of the foregoing.

h. "Sanitary Landfill" - a land site on which engineering principles are utilized to bury deposits of solid waste without creating public health or safety hazards, nuisances, pollution or environmental degradation.

i. "Solid Waste" - any waste, including but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials.

j. "Landfill Site" - tract of land upon which is located a landfill, including all structures and other appurtenances or improvements erected thereon.

k. "Person" - Any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, Federal Government or agency, State institution and agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

l. "Haul Road" - Any cartway within the landfill which shall be constructed for utilization in all weather conditions.

m. "Liner" - A continuous layer of materials constructed beneath a landfill which prevents the downward or lateral escape of solid waste, solid waste constituents, or leachate.

APPROVED by the Board of Supervisors of the Township of Amity and enacted into an Ordinance of the Township this 24th day of September, 1982.

ATTEST:

John Kant
Secretary

TOWNSHIP OF AMITY

By *W. E. LeClerk*
Chairman of the Board

George E. Grafton

William S. Embury, Jr.

Jacob S. Openford

Walter M. Plunk