

STATE OF MICHIGAN
COUNTY OF BAY
TOWNSHIP OF PINCONNING

ORDINANCE NO. 14-87A

An Ordinance to regulate the operation of Solid Waste Sanitary Landfills located within the Township of Pinconning, County of Bay and State of Michigan.

Be it ordained by the Township Board of the Township of Pinconning as follows:

I

NAME OF ORDINANCE

This Ordinance shall be known as the Pinconning Township Solid Waste Sanitary Landfill Ordinance and is intended to regulate the operation thereof in areas not preempted by the State of Michigan.

II

DEFINITIONS

1. Township means the Township of Pinconning.
2. Board means the Pinconning Township Board.
3. Solid Waste means those items defined in MCLA 299.407, Section 7, et seq., being PA 1978, Number 641, Section 7, which is incorporated herein by reference and made a part hereof.
4. Person means every person, firm, co-partnership, association, partnership, corporation, or society. It shall include both the singular and the plural, and the masculine shall embrace the feminine.
5. Solid Waste Landfill Site means a tract of land of not less than two hundred (200) contiguous acres, exclusive of the isolation areas hereinafter defined, and which site has been approved by and for which a permit has been issued by the Director of the Department of Natural Resources pursuant to PA 1978, Number 641, as amended, being MCLA 299.401, et seq.

6. Isolation Areas means the following:
 - a. Three hundred (300) feet from existing residence.
 - b. One hundred (100) feet from property lines and road right of ways.
 - c. One hundred (100) feet from lakes and perennial streams.
 - d. Ten thousand (10,000) feet from runways of airports licensed by the Michigan Aeronautics Commission.
7. DNR means Department of Natural Resources.

III

OPERATION OF SOLID WASTE SANITARY LANDFILLS

It shall be unlawful for any person from and after the effective date of this Ordinance to operate a Solid Waste Sanitary Landfill within the Township of Pinconning unless a permit for the construction thereof and operation thereof has been issued by the Department of Natural Resources pursuant to PA 1978, Number 641, being MCLA 299.401, et seq., as amended, and is in full compliance with and in full conformity with each and every one of the provisions of this Ordinance.

IV

HOURS OF OPERATION

No Solid Waste Sanitary Landfill shall be operated within the Township of Pinconning except during the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, excepting legal holidays, and from 8:00 a.m. to 12:00 noon on Saturday. In the event a legal holiday falls on a weekday, the site may remain open until 6:00 p.m. on Saturday of the week of such legal holiday. In the event of natural disaster, the Township Board, by appropriate resolution, may extend the hours and the days of operation.

V

FENCING

A Solid Waste Sanitary Landfill shall be fully enclosed by a six (6) foot wire cyclone fence. All gates and entrances thereto shall be closed and locked during periods of non-operation.

VI

BERMS

There shall be located within the fenced area and not nearer than twenty-five (25) feet thereto, a berm at least five (5) feet high and twenty (20) feet wide, and upon which shall be planted and maintained at least one (1) staggered row of deciduous or evergreen trees which will ultimately grow to a height of not less than twenty-five (25) feet and spaced not more than twelve (12) feet apart, and at least three (3) rows of deciduous or evergreen shrubs, spaced not less than eight (8) feet apart, and which will ultimately grow to a height of not less than twelve (12) feet. All areas within the berm not otherwise covered by trees or shrubs shall be seeded with grass, which shall be maintained as a lawn. It is intended hereby that the planting shall provide a site proof barrier.

VII

FIRE HYDRANTS

Fire hydrants shall be located within the site, in such location and number, as shall be determined by the Fire Marshall, his deputy, or agent, or the Township Fire Chief to be necessary to control any fire which may be started within the site. Any extension of water mains or enlargements thereof shall be at the sole expense of the operator of the landfill. In the event a water supply system does not service the area and a water main or an extension or enlargement of an existing water main is not feasible, a means of controlling any fire which may be started within the site shall be provided utilizing wells and/or ponds in such number, capacity and volume and pressure together with necessary appurtenances and devices to control volume and pressure as may from time to time be determined by the State Fire Marshall, his deputy or agent or the Township Fire Chief based on Standards set forth in a Nationally Recognized Fire Code. Alternatively the operator shall provide a system to control any fire which may be started within the site as may be approved by the Department of Natural Resources.

VIII

ACCESS ROADS

Access roads to the areas of ingress and egress to the site shall be provided and shall meet the engineering requirements of the Bay County

Road Commission if within the jurisdiction of the Bay County Road Commission, or the Michigan Department of Transportation if within the jurisdiction of the Michigan Department of Transportation, or such other agency, Federal, State, or Local, having jurisdiction thereof. Appropriate turn lanes shall be provided, and all traffic to and from the Solid Waste Sanitary Landfill site shall be routed along such access roads, and such roads shall be designated as the access roads to such site.

The official access road to and from a solid waste site located in Section 2 of Pinconning Township shall be from M-13 (Huron Road) easterly on White Feather Road to the entrance to the site located on White Feather Road. Access to and from the said site located in Section 2 Pinconning Township shall be prohibited on, over and across White Feather Road westerly from the intersection of White Feather Road and Lake Shore Road.

IX

SPEED LIMITS ON ACCESS ROADS

The posted speed limit on such access roads during hours of operation of the Solid Waste Sanitary Landfill site shall be 25 miles per hour.

X

POLICING OF AREA

The site shall be policed daily by the person licensed to operate same or his designated agent so as to prevent the escape therefrom of any windblown debris and dust, to prevent the harborage of rats and other vermin and rodents, and to prevent noxious odors.

XI

NOISES

All machinery used within the landfill site shall be properly maintained so as to reduce and/or muffle noises therefrom. Noises emanating from the site shall not exceed those decibels as measured any place along the outside perimeter of the fence around the site as from time to time may be established by MIOSHA Standards for like operations.

XII

SALVAGING AND SCAVENGING

No person shall salvage or scavenge from the landfill site except as may be provided by PA 1978, Number 641, being MCLA 299.407 et seq.

XIII

IMPACT FEE

The owner and/or operator of the Solid Waste Sanitary Landfill located within the Township of Pinconning shall collect an impact fee of seven cents (.07¢) per cubic yard of solid waste disposed of at the Solid Waste Sanitary Landfill site. The sums so collected by the owner/operator from persons or entities depositing or disposing of solid waste at such site shall be paid to the Township of Pinconning quarterly by the thirtieth (30th) day after the end of each calendar quarter. The owner/operator shall keep accurate books and records of the name and address of the person or entity depositing solid waste at the Solid Waste Sanitary Landfill site during each quarter together with the number of cubic yards deposited therein by each person or entity and the amount of fees collected from such person or entity for disposal of solid waste at the site during such quarter. Such books and records shall be made available for inspection and audit by the Township and/or its duly designated agent or representative.

The fees so collected by the owner/operator and paid over to the Township shall be deposited in the general fund of the Township to be used for solid waste management or any costs incurred by the Township related to the operation of the Solid Waste Sanitary Landfill site at which such fee is collected. Such revenues, however, so paid to the Township pursuant to this Ordinance shall not be used to bring or support a lawsuit or other legal action against the owner or operator of the Solid Waste Sanitary Landfill unless the owner or operator of the Landfill has instituted a lawsuit or other legal action against the Township.

XIV

AREA OF DISPOSAL

No solid waste as herein defined shall be deposited nearer than two hundred fifty (250) feet to the inner perimeter of the berm referred to in Section VI hereof.

XV

COMPLIANCE WITH OTHER LAWS AND ORDINANCES

All other State and Federal laws and rules and regulations of regulatory agencies, Ordinances of the County of Bay and of the Township of Pinconning, shall be fully complied with.

XVI

REMEDIES

A. PENALTIES.

Any person violating any of the provisions of this Ordinance shall, for each offense, be fined not more than Five Hundred and no/100 Dollars (\$500.00) or imprisoned for not more than ninety (90) days in a County jail or both, in the discretion of the Court. The imposition of any penalty hereunder shall not preclude the Township or any proper person on behalf of the Township from instituting any appropriate action or proceeding to require compliance with the provisions of this Ordinance.

Each day of violation of this Ordinance shall be deemed to be a separate offense or violation hereof.

B. NUISANCES.

Violations of this Ordinance are hereby declared to be a nuisance per se.

C. ADDITIONAL REMEDIES.

In addition to the penal provisions provided for herein, proceedings may be instituted in the Circuit Court for the County of Bay to enjoin violations hereof.

XVII

RULES OF CONSTRUCTION

A. Words, phrases and terms defined herein shall be given the defined meaning.

B. Words, phrases and terms not defined herein shall be given their usual and customary meanings, except where the context clearly indicates a different meaning.

C. The text of the Ordinance shall control captions and titles.

D. The word "shall" is mandatory and not permissive; the word "may" is permissive and not mandatory.

E. Words used in the singular include the plural and words used in the plural include the singular.

F. Words used in the present tense include the future tense, and words in the future tense include the present tense.

XVIII SEVERABILITY

If for any reason any one or more sections, sentences, clauses or parts of this Ordinance are held invalid, such invalidity shall not affect, impair or invalidate the remaining provisions of this Ordinance, but shall be confined in its operation to the specific sections, sentences, clauses or parts of this Ordinance held invalid, and the invalidity of any section, sentence, clause or part of this Ordinance in any one or more instances shall not affect or prejudice in any way the validity of this Ordinance in any other instance.

XIX AUTHORITY FOR ADOPTION OF ORDINANCE

This Ordinance has been adopted pursuant to the provisions of MCLA 299.430(4) and being Section 30(4), PA 1978, Number 641, MCLA 41.181, and Article 7, Sections 19 and 29 of Michigan Constitution of 1963.

XX EFFECTIVE DATE

This Ordinance being necessary for the regulation of the public health, safety and general welfare of the persons and property of the Township, it shall become effective thirty (30) days after publication thereof as required by the provisions of MCLA 41.191.

Adopted at a regularly scheduled meeting of the Township Board of the Township of Pinconning, at the Township Hall on the 10TH day of JULY, 1989.

AYES

R. Tilley
B. Kleinhorst
R. Doan
M. Bergeron
L. Atwater

NAYS

none

CERTIFICATION

I do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Township Board of the Township of Pinconning at the regularly scheduled meeting held at the Township Hall on the 10th day of July, 1989.

Leroy Atwater
LEROY ATWATER
Township Clerk

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