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PERRY COUNTY KENTUCKY
ORDINANCE NO. _____
AMENDED SOLID WASTE ORDINANCE

AN ORDINANCE PERTAINING TO THE PUBLIC HEALTH,
SAFETY, AND WELFARE; REGULATING THE STORAGE,
COLLECTION, TRANSPORTATION, PROCESSING AND
DISPOSAL OF SOLID WASTE; AUTHORIZING THE
ADVERTISEMENT, SELECTION, AND AWARDING OF A
FRANCHISE FOR THE COLLECTION AND DISPOSAL OF
SOLID WASTE; ESTABLISHING THE PROCEDURE FOR SOLID
WASTE DISPOSAL SITE APPLICATIONS, REVIEW AND
APPROVAL/DISAPPROVAL; PROHIBITING SPECIFIC ACTS
PERTAINING TO SOLID WASTE DISPOSAL AND LITTERING;
AND PROVIDING A PENALTY FOR VIOLATION OF THE
PROVISIONS OF THIS ORDINANCE.

WHEREAS, the Fiscal Court of Perry County, Kentucky is aware
of an ever-increasing volume of solid waste being generated within
the County making it more difficult to facilitate the proper
collection and disposal of Solid Waste; and

WHEREAS, the collection and disposal of solid waste, at
present, does not facilitate the efficient collection or disposal
of same; and

WHEREAS, it appears that the present collection system does
not adequately serve the citizens of Perry County and cannot serve
the future needs of this county as it pertains to the protection of
our environment, as well as the protection of the public health and
welfare of the citizens residing therein; and

WHEREAS, it has been determined by Perry Fiscal Court that it
is necessary to implement a comprehensive and efficient method of
providing for adequate solid waste collection, management and
disposal.

NOW THEREFORE, be it duly ordained as follows:

TITLE

1. This Ordinance shall be known as the Perry County Solid
Waste Management Ordinance.

FRANCHISE AUTHORIZATION

2. The Fiscal Court of Perry County may at any time, and from time to time, advertise in any manner in which it deems fit for bids to be made by companies interested in providing the collection, transportation, and disposal of solid waste located within the areas of Perry County, Kentucky.

Each bid shall contain that information required by paragraphs 29(b) (1), (5) and (6) hereof and shall specifically address the following areas.

a. Proposals to be utilized to reduce the need for land disposal through waste reduction and recycling, materials recovery, and energy recovery and the provision of opportunities for recycling that may include, but not be limited to, drop-off centers or door-to-door collection.

b. If recycling or material recovery are not deemed feasible, provide specific factual analysis supporting that decision.

c. A description of the methods to be used for disposal of used motor oil, batteries and antifreeze.

d. A description of how household hazardous waste is to be handled.

e. Information regarding the recycling of electronics/computers.

3. Following the submission of bids from interested parties desiring to be granted a franchise within Perry County, Kentucky for the provision of the collection, transportation, and disposal of solid waste, thereafter, a public hearing shall be held concerning the application or bids of those interested in providing the services that are described herein.

4. All bidders must be willing to pay, and by their acceptance of any franchise, will expressly agree to pay all damages and penalties which the Fiscal Court of Perry County, Kentucky may legally be required to pay as a result of the franchisee company's negligence in the collection, transportation, or disposal of solid waste and shall further carry and pay the cost of liability insurance in support of its undertaking to hold Perry County, Kentucky and Perry Fiscal Court harmless from any loss sustained as a result of either the negligence of the company so receiving a franchise or any actions on behalf of the company pursuant to a

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franchise grant which may be suffered by Perry County, Perry Fiscal Court, or its members. Any company so receiving a franchise shall maintain liability Insurance in amounts so designated by the County from time to time.

5. The franchisee shall be an independent agent and not the agent, servant or employee of Perry County, Kentucky, and shall be required to be exclusively responsible for all the provisions of Workman' s Compensation Laws of the Commonwealth of Kentucky, as well as any and all other regulations, statutes, or provisions adopted by the Federal Government, State Government or County of Perry.

6. The franchise area for the collection, transportation, and disposal of solid waste shall be within the areas of Perry County designated in the request for bids. This shall be known as the "service area".

7. Franchises will only be granted upon a finding by the Perry Fiscal Court that the bidder will render prompt, efficient, and continuing service to the service area described herein, and that the bidder has sufficient equipment and personnel to render service to all persons generating solid waste within the service area defined above.

8. Vehicles used for the collection and transportation of any solid waste shall be covered, leak proof and have an enclosed body, be durable and be of easily cleanable construction.

9. The Fiscal Court of Perry County, Kentucky shall set and approve all fees charged by the franchise holders. All franchises shall be for such term as is set forth in the request for bids.

10. Any franchise holder shall provide at least weekly waste collection to any resident requesting service.

11. No franchise Agreement shall be assignable without the prior written consent of the Perry Fiscal Court.

12. The franchise holder may refuse to accept for collection radioactive waste, hazardous waste, liquid waste, demolition waste, appliances, furniture, rock or stone, or waste that is not in an approved container.

13. The franchise holder shall obtain and keep continuously in effect public liability and property damage insurance in amounts not less than Two Million Dollars (\$2,000,000.00) single limit coverage.

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14. Any franchise holder shall furnish a performance bond for the faithful performance of the agreement and franchise grant in an amount to be set by Perry Fiscal Court, and the bond shall be continued as long as the agreement is in effect.

15. Perry Fiscal Court may terminate or suspend all or any portion of a franchise for any of the following reasons:

a. Failure of the franchise to comply with the authorized fee schedules,

b. Failure of the franchise to dispose of the collected waste in a sanitary landfill permitted by the Commonwealth of Kentucky

c. Failure to collect all waste in excess of two (2) consecutive weeks;

16. No person, business, nor legal entity may engage in the business of solid waste collection unless the person, business, or legal entity holds a franchise issued by the Fiscal Court of Perry County, Kentucky pursuant to this ordinance authorizing said individual, business, or legal entity to collect, transport, and dispose of solid waste within Perry County, Kentucky.

17. Any person engaging in the business of solid waste collection in the service area defined herein without obtaining the franchise issued by the Perry Fiscal Court shall be guilty of a misdemeanor punishable by a fine not to exceed \$250.00 or imprisonment for not more than ninety (90) days, or both. Each day's violation shall be treated and considered a separate offense.

18. Perry County, Kentucky shall be entitled to a fee upon awarding of a nonexclusive franchise to collect, transport, and dispose of solid waste, either commercial, industrial or residential, in an amount or manner to be determined by the County. The fee may be charged on a percentage basis of gross subscriber revenues or on a fee per collection basis.

19. On an annual basis, by Feb. 15 of each year, each franchisee shall submit to Perry County through the office of the Judge/Executive a proposal to be implemented by the county to reduce the need for land disposal through waste reduction and recycling, materials recovery, and energy recovery. The plan shall address the feasibility of drop-off centers for recycling and separation of recyclables at the curb.

(A) Each franchisee shall also submit on an annual basis a

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report to the office of the County Judge Executive sufficient to identify the number of customers being served by the franchisee, the total amount of solid waste disposed of on an annual basis and the percentage of the solid waste disposed of within the county.

DEFINITION

20. Solid waste shall be defined as follows: any garbage, refuse, or discarded material generated by commercial, industrial, residential or community activities.

SOLID WASTE STORAGE

21. The occupant or owner of every dwelling unit and of every commercial, business, industrial or Agricultural establishment producing solid waste within the legal limits of Perry County, Kentucky shall provide sufficient and adequate containers for the storage of all solid waste, except bulky rubbish and demolition and construction waste to serve each such dwelling unit and/or establishment and shall maintain such solid waste containers at all times in good repair.

22. The occupant or owner of every dwelling unit and of every institutional, commercial, industrial, agricultural, or business establishment shall place all solid waste to be collected in a proper solid waste container or containers, except as otherwise provided herein, and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times. Solid waste shall be stored in a manner that will not provide harborage to rodents and vermin, and will not create a fire hazard.

23. Residential solid waste shall be stored in containers of not more than thirty five (35) gallons nor less than ten (10) gallons in nominal capacity. Containers shall be leak proof, waterproof, and fitted with a fly-tight lid, and shall be properly covered at all times except when disposing waste therein or removing the contents thereof. The containers shall have handles, balls or other suitable lifting devices or features. The weight of any individual container and contents shall not exceed seventy five (75) pounds. Galvanized metal containers or rubber, fiberglass or plastic containers which do not become brittle in cold weather, may be used pursuant to this Ordinance. Disposable solid waste containers may also be used for storage of residential solid waste.

SOLID WASTE COLLECTION

24. Perry County shall make available to every residence and commercial establishment within Perry County, Kentucky, solid waste collection and disposal service through the awarding of a franchise or franchises which shall pick up solid waste within five (5) feet of the nearest public road to the residence or commercial establishment .

25. All payment of collected fees shall be made by individuals or business directly to the franchise holder pursuant to a franchise agreement to be issued by the County.

26. Solid waste collectors, acting pursuant to a franchise agreement granted by the County pursuant to this Ordinance are hereby authorized to enter upon private property for the limited purpose of collecting solid waste therefrom as required by this Ordinance. Solid waste collectors shall not enter the dwelling units or other residential buildings for the purpose of collecting residential solid waste.

27. No person shall be allowed to separate, carry off or dispose of garbage without the written permission of the franchise holder, its agent or representative.

SITING OF SOLID WASTE MANAGEMENT FACILITIES

28. PROHIBITION

(a) No person shall construct or operate a solid waste management facility or site until facility site approval has been obtained from the Perry County Fiscal Court or its agents pursuant to this ordinance.

(b) No person may construct or operate a solid waste management without having first obtained all necessary permits from The Natural Resources and Environmental Protection Cabinet.

(c) No person shall dispose of hazardous wastes in Perry County other than small quantities as allowed pursuant to Title 401 KAR, Chapter 47.

29. SITE APPROVAL PROCESS

(a) The owner/operator of the facility or proposed facility shall file a petition for site approval with the Perry County Fiscal Court at the Office of the County Judge/Executive.

(b) The petition for site approval shall include:

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- (1) The name and address of the owner/operator and the street address, if any, of the proposed site of the facility;
- (2) A copy of the deed or other document establishing the right, title and interest of the owner/operator in the proposed site of the facility;
- (3) A current USGS map showing the location of the proposed site, at a scale of one (1) inch equals two thousand (2,000) feet, with said map showing the entire boundaries of the site or proposed site;
- (4) A description of the type of solid waste and the source of generation of the solid waste involved in the solid waste activity to be conducted on the site together with a description of the technology and the procedures the owner/operator proposes to utilize in its solid waste management activities at the site;
- (5) A complete history of the owner/operator's prior experience in the ownership and/or operation of any and all solid waste sites or facilities, wherever situated. The description shall include a record of compliance with federal, state and local laws and regulations applicable to the operation of solid waste management facilities; and with respect to the owner/operator, such description shall disclose:
 - (a) Any administrative, criminal or civil action pending against it, him or her, alleging a violation of any federal, state or local law or regulation concerning solid waste, the protection of human health and safety, or the environment;
 - (b) For the five (5) year period immediately preceding the date of filing of the petition for site approval, whether the owner/operator has been convicted of a crime, entered a plea of guilty, a plea of *nolo contendere* or such other plea of no contest to a felony or misdemeanor charge, been held liable in a civil or administrative action, or agreed to the payment of any civil penalties or monies as a part of the final disposition of any civil, administrative or criminal proceeding, involving the violation of any Federal, state or local law or regulation applicable to the

management of solid waste and the protection of human health and the safety of the environment;

(6) The petition for site approval shall identify the following persons and entities, and provide the compliance information required below for each person or entity so identified:

(a) The owner/operator applying for site approval;

(b) If the owner/operator is a proprietorship, each proprietor and the interest held;

(c) If the owner/operator is a partnership, each of the partners and their respective interest, and any corporation, joint venture, partnership in which any of the partners of the applicant owner/operator hold twenty-five (25) percent or greater interest in any of the partners comprising the applicant;

(d) If the owner/operator is a corporation, a detailed listing of the officers, directors and any stockholders holding ten (10) percent or more stock in the corporation; any corporation of which the applicant owner/operator is a subsidiary or which holds a ten (10) percent or greater interest in the applicant; any corporations which are either subsidiaries of the applicant or in which the applicant holds a ten (10) percent or greater interest; and any proprietorship, partnership, or joint venture in which the applicant holds a ten (10) percent or greater interest.

For the purposes of this section, "interest" includes ownership or other interest reflected in stocks, assets or other beneficial interest.

(7) Financial Data Including:

(a) An estimate of the total cost of the facility and an estimate of the cost of each of the major components of the facility;

(b) Audited statements of income and balance sheets of the owner and operator for each of the three (3) years immediately preceding the year in which the petition for site approval is filed;

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(c) A plan of financing for the proposed facility, including the amount to be raised through debt and the potential sources thereof. If the owner/operator is a subsidiary corporation which wishes to have the financial resources of its parent considered, then the owner/operator shall submit, in addition to the foregoing, a description of the relation between the subsidiary and the parent and written confirmation from such parent corporation that its financial resources are available to finance the proposed facility as represented by the subsidiary;

(d) A statement showing evidence of a minimum of \$2,000,000.00 liability insurance coverage in effect or proposed with respect to the facility, together with true copies of any policies of insurance in effect and a listing of any claims made or threatened under any policies of liability insurance;

(e) A statement as to whether the owner/operator has been designated as a potential responsible party under the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended; and, if so, the location of the site or sites involved, an estimate of the owner/operator's share, if any, of the cost to clean up the site and a description of site and superfund listing;

(8) A statement as to the present suitability of the site for the conduct of the proposed activity at the facility and of any additional measures that would be required to make the site suitable for such activity;

(9) A set of drawings conducted by a licensed engineer depicting the proposed facility, which drawings impart sufficient detail and information for the conduct of the petition under this ordinance;

(10) A Facility Impact Report (FIR) in accordance with this ordinance;

(11) A copy of the public notice of the right to submit comments to the Perry County Fiscal Court pursuant to this ordinance;

(12) Evidence of notification by certified mail to

adjoining property owners of the site of the intention to submit to the Perry County Fiscal Court a petition for site approval of a solid waste management facility. Property owners include:

(a) Property owners immediately adjacent to the site;

(b) Persons owning property in Perry County along transportation corridors providing direct access to the site which are within a one mile radius of the site;

(13) A list of the names and addresses of all persons to whom the petition for site approval was submitted pursuant to the provisions of this ordinance:

(14) The following certification:

"I certify that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals responsible for obtaining the information, I believe the submitted information is true, accurate and complete." which shall be signed by the owner/operator where:

(a) If the owner/operator is a corporation, by an authorized executive officer; or

(b) If the owner/operator is a partnership, by an authorized general partner; or

(c) If the owner/operator is a sole proprietor, by the proprietor; or

(d) If the owner/operator is a governmental agency, by the head of that agency.

(15) The owner/operator siting fee or fees under this ordinance.

(16) Any information submitted to the Perry County Fiscal Court pursuant to this ordinance may be claimed confidential by the submitter. Any such claim must be asserted at the time of submission in the matter prescribed at the time of submission or instructions or, in the case of other submissions, by stamping the words "CONFIDENTIAL BUSINESS INFORMATION" on each page containing such information. If no claim is made at the time of submission, the Perry County Fiscal Court may make

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the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in KRS 224.035 which are adopted herein by reference. Claims that the name and address of any owner/operator or the type of waste to be disposed of at the landfill is confidential will be denied.

(17) A true copy of the permit application required by the Cabinet. The owner/operator shall include all information required by Title 401 KAR, Chapter 47.

(18) A closure plan for the landfill as required by Title 401, Chapter 47 of KRS with estimates of closure costs.

(C) SUBMISSION AND DISTRIBUTION

(1) The petition for site approval shall be submitted to the Perry County Judge/Executive. Within forty-five (45) days of the receipt of the petition for site approval, the owner/operator shall be notified in writing if the petition for site approval is administratively complete. For the purposes of this ordinance, "Administratively Complete Petition" means a petition for site approval which the Perry County Judge/Executive or its agents determines to contain information addressing each petition requirement of this ordinance and to contain all information necessary to initiate technical processing and public review. Additional information may be required after determination that application is deemed administratively complete.

(2) Upon receipt of the notification from the County Judge/Executive of administrative completeness, the owner/operator shall forthwith deliver the petition for site approval to the following persons:

(a) Members of the Perry County Fiscal Court at those addresses set out in the list to be provided to the owner/operator by the County Judge/Executive;

(b) The fire department chief with jurisdiction over the site or facility. Such fire department shall be within the boundaries of Perry County;

(c) The county disaster and emergency services coordinator (DES);

(d) Directors of the following Perry County agencies and departments: Department of Health, Department of Economic Development, Perry County Solid Waste Management, Office of the County

Attorney, Department of Roads, County Ambulance Service;
(e) The Kentucky Department of Fish and Wildlife Resources, the U.S. Forest Service, and the U.S. Corps of Engineers;

(D) PUBLIC COMMENT AND PUBLIC HEARING.

Each petition for site approval shall be subject to a public comment period and, upon request, a public hearing. After the owner/operator has been notified that the petition for site approval is administratively complete and has delivered the petition as required, the owner/operator shall cause to be published a public notice weekly for six (6) consecutive weeks in the two newspapers of greatest circulation in the State of Kentucky and the newspaper of the greatest circulation published in Perry County.

The notice shall be in a form approved by the Office of the Perry County Judge/Executive and shall advise the public that a petition for site approval has been filed; the beginning date and the ending date of the public comment period shall commence as of the date of the first public notice and shall end fourteen (14) days after the last public notice has been published or on the date on which the public hearing is concluded. The public hearing shall be held within forty-five (45) days after the date of the publication of the last of the six weekly public notices required herein. The public hearing will be held in Perry County.

30. FISCAL COURT DETERMINATION AS TO FACILITY SITE APPROVAL

(A) Within sixty (60) days after the conclusion of the public hearing, the appropriate fire department chief, the county D.E.S. coordinator, the Director of the Department of Health, and the Director of Perry County Solid Waste Management shall review the petition for site approval, together with any comments or information received during the public comment period, and any other information deemed appropriate, and each such agency shall make a recommendation to Fiscal Court regarding the granting or denial of the approval of the facility site.

Within thirty (30) days following receipt of the agency recommendations, the Fiscal Court of Perry County shall make final determination whether to grant or deny the petition for site approval.

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(B) FISCAL COURT DETERMINATION.

The purpose of this ordinance is to protect human health and the quality of life and the environment of Perry County from unreasonable risk to human health and safety from the siting of or modification to solid waste sites or facilities and the operation of such facilities. The Fiscal Court in making its determinations pursuant to this ordinance, will consider the facility impact report and other information required to be submitted by the independent consultant as commissioned by the Fiscal Court, and other information submitted by the public.

At a minimum, the Fiscal Court will consider the following criteria in determining the appropriateness of the siting of the proposed solid waste site or facility or modifications to an existing site or facility.

The Fiscal Court will consider each potential pathway for exposure, the magnitude, frequency, duration and degree of risk posed, and the chronic, acute, direct, indirect, and cumulative risk to human health by the proposed activity in determining whether the risk posed by the proposed activity, siting or modification and subsequent operation are reasonable.

The Perry County Fiscal Court shall grant the petition for site approval if it finds, on the basis of the information available to it that:

- (1) The nature of the solid waste management activity conducted at the facility site will not present an unreasonable risk to human health or safety; and
- (2) The nature and extent of the solid waste activity conducted at the proposed site would not significantly impede or adversely impact the provision of fire, health and other emergency services to the public both in the vicinity of the site and throughout Perry County; and
- (3) The nature of the solid waste activity conducted at the facility site would not result in a significant reduction in the public's use and enjoyment of parks, recreational waters, historic structures, . Cultural and natural resources located in the vicinity of the facility site; and
- (4) The facility and the solid waste activity occurring on the site will not have a significant adverse impact on the establishment of businesses, residential developments, churches, schools or other types of activities related to the social, economic and cultural development of Perry County; and
- (5) The owner/operator's prior experience and history in solid waste activities indicates a reasonably satisfactory record of compliance with applicable federal, state and local laws and regulations, and based upon such prior record, it can be reasonably expected that the owner/operator will, in constructing, expending, maintaining or operating the facility at the proposed site, maintain a corresponding satisfactory record of compliance with applicable law and regulations; and

(6) The owner/operator has sufficient financial resources to: complete construction of the new or expanded facility; maintain and operate the facility in compliance with applicable laws and regulations; respond immediately in the event of emergency by reason of accident or upset at the site; and complete closure of the facility; and

(7) The owner/operator has complied with all solid waste management laws and regulations concerning solid waste facility permits, filing and/or notifications required by the Natural Resources and Environmental Protection Cabinet for the construction and operation of the facility site; and -

(8) The application is consistent with the goals and objectives of the Perry County Solid Waste Management Plan as adopted; and

(9) The required financial responsibility for closure has been established, by filing with the Perry County Judge Executive a bond or establishing an escrow account in an amount of \$10,000 or greater.

(a) Additional financial requirements for closure will be determined by the detailed plan for closure as required by KRS 224.846 and Title 401 KAR 47:040 in combination with the estimated closure costs provided by the petition for site approval. In the event that closure costs as determined by the petition for site approval exceed those determined by the Cabinet, the owner/operator shall file an additional bond with the Perry County Judge Executive or establish and escrow account for an amount set to cover the net differences in the estimated costs for closure.

(b) At the time the facility permanently ceases accepting waste, the facility shall be filled, covered, graded, seeded and revegetated according to regulations promulgated by the Perry County Fiscal Court. Upon determination by the cabinet that the site has been fully closed and at the end of a thirty (30) year post closure date, the Perry County Judge Executive shall release the bond or other guarantee of financial responsibility that has been provided to the county. If such closure requirements are not accomplished by the operator of the facility, the Perry County Judge Executive or its agents shall forfeit the bond or demand release of the monies held to guarantee financial responsibility.

(c) The approved cost estimate for closure and corresponding bond shall be reviewed and adjusted at least once every five (5) years or subsequent to review and adjustment of the bond by the cabinet.

(C) NOTIFICATION; FISCAL COURT

The Perry County Fiscal Court shall send written notification of its determination with respect to the petition for site approval to the owner/operator and to all persons who submitted written or oral comments during the public comment period. Such notifications

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shall include a written summary of the basis for the determination.

The Perry County Fiscal Court shall, to the extent possible or as may be required, coordinate its review of petitions for site approval under this ordinance with the exercise of authority conferred upon it pursuant to any state or federal laws.

31. FACILITY IMPACT REPORT

(A) PROCEDURE

The owner/operator shall file with its petition for site approval a facility impact report which shall include the following: an environmental impact report; a socio-economic report; and a risk assessment. Each such section of the facility impact report shall be in typewritten form and shall address issues and matters as hereinafter set out.

The owner/operator shall publish notice of availability of the facility impact report for examination and review at the Office of the County Judge/Executive, such notice to be included in the public notice required in Section (7.2) (d) hereof with respect to the petition for site approval.

(B) CONTENTS OF FACILITY IMPACT REPORT.

(1) The facility impact report shall contain a socio-economic report which shall include a comprehensive community inventory which shall identify the following:

(a) The historic land use of the facility site;

(b) Proximity of to the facility site residences, churches, public parks, schools, agriculture land, nursing homes, hospitals, cemeteries, historic structures, and infant care facilities;

(c) A general profile business of the community located in the vicinity of the facility site including any sites planned for future industrial parks or sites being considered for any business or manufacturing facility;

(d) Streets, highways transportation and facilities information including capacity and usage;

(e) Cultural resources;

(f) Population data and trends for the county and the vicinity of the facility site; and

(g) A statement as to the impact on the community, including community perception, direct and indirect

impact on the local economy and economic growth, and an analysis of the impact on land values in the vicinity of the facility site.

- (2) The facility impact report shall contain an environmental impact report which shall identify existing environmental conditions in the vicinity of the facility site, such report to include at a minimum:
- (a) A geological report with a description of the soil types to include soil permeability, and stability drainage, and the geology down through and including the aquifer zones in the area;
 - (b) A hydrological report with a description of the hydrology and surface and groundwater quality and quantity in the area, including proximity to any aquifers and recharge areas and sensitive areas such as wet lands;
 - (c) Proximity to public and private surface or groundwater supplies, including current and potential future uses;
 - (d) A biological report with a description of the presence of significant, threatened or endangered species;
 - (e) An air quality including the report, characteristics (stability) of the atmosphere which affect the site and the present and projected population and the effects of emitted gases and odors in relation to the facility and prevailing wind;
 - (f) Flood plain identification;
 - (g) An archeological report with a description of historic, archaeological and natural sites and landmarks, outstanding resource waters, public forest areas, dedicated or designated open space, public recreational areas, wildlife refuges, gamelands and fishing waters.
- To the extent the data and information included in a solid waste facility or site application as required by the provisions of Title 401 KAR, Chapter 47 Section (2) set forth the information-required by this subsection (2), the owner/operator may submit a true and verified copy of the particular permit application submitted or to be submitted to the Cabinet, with respect to the facility.

(3) The facility impact report shall include a risk assessment which shall quantitatively define the public health, safety and environmental risk associated with routine operations and upset conditions at the facility site. The scope and context of the impacts on the community will vary depending upon the nature, size, duration and extent of the activity to be conducted at the facility site.

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The risk assessment shall analyze those items as identified by the Perry County Fiscal Court, which shall include the following:

(a) Risks associated with accidents in transportation, such as analysis to include mode of transportation, route, schedule and frequency of deliveries, accident rate of mode and route, and the characteristics of structures and population, residential and nonresidential, within the reasonably predicted impact area;

(b) Nature, extent, quantity and impacts of routine releases to air, water, land from all sources at the facility site, including storm water run off.

(c) Nature, extent, quantity and impacts of releases to air, water, land in upset conditions, including both historical data from comparable facilities and modeling reasonable worst-case upset conditions;

(d) Adequacy of emergency services (police, fire, medical) to protect human health, safety and environment from fire, explosion, flood, chemical release or any natural disaster and the owner/operator's emergency implementation plan;

(e) Projections of possible health effects with particular emphasis on occupational health, human health, chronic and acute exposure for both at the facility site and the surrounding area;

(f) Adequacy of transportation system in the event of an emergency.

32. OWNER/OPERATOR

The owner/operator shall by certified check made payable to the Perry County Fiscal Court, submit fees in accordance with the following schedule:

(a) At the time of submission of the petition- for site approval an initial fee of \$10,000.00 is required. Fees would apply to a new facility or site and also to any petition for modification to expand an existing facility or site.

(b) At the conclusion of the review process, the Perry County Judge/Executive shall tender to the owner/operator a statement setting out the actual cost incurred by the Perry County Fiscal Court for

the use of the consultant, which shall be payable upon receipt; and

(c) The total fee shall not exceed the actual cost of the consultant and any other expenses incurred by the Perry County Fiscal Court. The Fiscal Court shall utilize a qualified consultant to assist it in evaluation of the petition for site approval, and in reviewing the facility impact report and all other information considered as a part of the review process. The fees paid pursuant to this Section shall be used to defray the cost of expenses to the Fiscal Court and for such consultant. These provisions shall not apply to agreements and understandings heretofore with waste management entities by the Perry County Fiscal Court relating to establishment or relocation of existing or planned waste management facilities.

PROHIBITED PRACTICES

33. It shall be unlawful for any person to:

A. Dispose of garbage, refuse, rubbish, or debris by dumping same on any premises in the County without the consent of the owner of the premises.

B. Dump or permit the dumping of garbage, refuse, rubbish and debris on any property within Perry County, Kentucky, unless otherwise authorized by the ordinance.

C. Deposit solid waste in any solid waste container other than his own, without written consent of the owner of such container and/or with the intent of avoiding payment of the service charge relative to solid waste collection and disposal which may be assessed by a franchise holder

D. Interfere in any manner with solid waste collection and transportation equipment, or with solid waste collectors in the lawful performance of its duties as such, pursuant to a franchise granted by the County pursuant to this Ordinance.

E. Dispose of dead animals in any container to be collected by a franchise holder.

F. Own or operate a dump without benefit of a permit issued by the Commonwealth of Kentucky.

G. Dispose of solid waste in any facility location which is not approved by Perry County, Kentucky and the Kentucky Department for Environmental Protection.

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H. Engage in the business of collecting, transporting, processing, or disposing of solid waste within Perry County, Kentucky without a franchise grant from Perry County, or operate under an expired permit or franchise grant or operate after a grant or permit has been suspended or revoked by the County. 1.

34. SPECIFIC PROHIBITIONS

A. CONTAINERS

1. Tight Containers

No owner, occupant, tenant or lessee of any building or dwelling may leave outside the dwelling or building, in a place accessible to children, any abandoned or unattended icebox, refrigerator or other receptacle that has an airtight door without first removing the door.

2. Storage Containers Not in Compliance

Solid waste containers which do not meet the specifications as outlined in Perry County Solid Waste Ordinance (as amended) shall be considered waste and may be collected together with contents and disposed of.

3. LITTER IN GENERAL

No person shall dump, deposit, drop, throw, discard, leave, cause or permit the dumping, depositing, dropping, throwing, discarding or leaving litter upon any public or private property in this or upon or into any river, lake, pond or other stream or body of water in this County unless:

a. The property has been designated by the County for the disposal of litter.

b. The litter is placed in a receptacle or other container intended by the owner or tenant of that property for the deposit of litter.

c. Placement of Litter Receptacles

1. The owner or person in control of any property which is held out to the public as a place of assemblage-, the transaction or business, recreation or as public way and including but not limited to restaurants, shopping centers stores, stores, hotels, industrial establishments, office buildings, apartment buildings, housing projects, construction sites, loading and unloading docks, gas stations, and hospitals and clinics shall at all times keep the premises clean of all litter

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thrown or left on said premises and shall take measures including daily cleanup of the premises to prevent litter from drifting or blowing to adjoining premises.

2. Receptacles of sufficient size and number shall be placed on all premises, public and private, for the disposition of litter.

3. The owner or person in control of any property which is held out to the public as a place for assemblage, the transaction of business recreation or as public way shall conspicuously identify receptacles for the disposal of litter.

4. Use of Receptacles

LITTER RECEPTACLES placed on sidewalks and other public places shall be used only for such LITTER material as PERSONS may have for disposal while passing along the STREET or other PUBLIC PLACES and in no event shall be used for the disposal of other SOLID WASTE accumulated in residences or places of business.

5. Damaging Receptacles

It shall be unlawful for any person to willfully damage or deface any LITTER RECEPTACLES.

6. Removal of Litter

It shall be the responsibility of the local municipality, city, county agency or person owning or maintaining the same for the removal of LITTER from LITTER RECEPTACLES placed in PARKS, CAMPGROUNDS, and other PUBLIC PLACES.

7. Sweeping Litter Into Gutters or Ditches Prohibited.

No person shall sweep into or deposit in any gutter, road, alley, ditch or other PUBLIC PLACE the accumulation of LITTER from any building, lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalks in front of their premises free of LITTER.

8. Throwing or Distributing Handbills

a. No person shall throw or deposit any handbill upon any PUBLIC PLACE within the COUNTY. Provided, however, that it shall not be unlawful for any person to hand out, without charge to the receiver thereof,

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- any handbill to any occupancy of a VEHICLE, or to any other person who is willing to accept it.
- b. No person shall throw or deposit any handbill in or upon any uninhabited or vacant PRIVATE PROPERTY.
- c. Exemption for mail and newspapers.

The provisions of this section shall not apply to the distribution of mail by the United States nor the local newspaper, except that newspapers shall be placed on private residences or other PRIVATE PROPERTY in such a manner as to prevent their being carried or deposited by the elements upon any PUBLIC PLACE or upon PRIVATE PROPERTY.

9. Litter Thrown by Persons in Vehicles
- a. No person shall dump, deposit, drop, throw, discard or otherwise dispose of litter from any motor vehicle upon any PUBLIC ROAD, upon any PUBLIC or PRIVATE PROPERTY or upon or into any river, lake, pond, stream or body of water in this county except
- b. No vehicle shall be driven or moved on any public ROAD unless such VEHICLE is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom, except that sand or gravel may be dropped for the purpose of securing traction or water or other substance may be sprinkled on a roadway surface in the cleaning or maintaining of such roadway by public authority having jurisdiction for the same or by PERSONS under contract or other authorization by such public authority.
- c. Any person owning or operating a vehicle from which any glass or other objects of its load have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public street shall cause such public street to be cleaned of all such glass or other objects and shall pay any cost thereof.
10. CLEAN UP OF PROPERTY ENFORCED
- If the occupant, or owner of any real property fails to remove litter from real property after 30 days notice, the county may cause such litter to be removed. In the event that the COUNTY is required to remove the litter from any real property, it may proceed to obtain a special lien against said property for the cost of said litter removal.
11. EVIDENCE OF PROOF OF VIOLATIONS
- a. Indicia of Prior Ownership/Possession
- When two or more items of solid waste, (i.e. check stubs canceled checks, prescription

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bottles, telephone or utility bills, etc.) bearing the same name of a person as an indicia or prior ownership or possession are found whose name appears thereon shall be deemed prima facie to be guilty of criminal littering.

- b. Waste Thrown/Dropped from Vehicle
When any paper, waste material, litter or other refuse is thrown or dropped from a motor vehicle, the operator thereof shall be deemed prima facie to be guilty of criminal littering.

12. DEAD ANIMAL REMOVAL

It shall be the responsibility of any person knowingly disposing of a dead animal on/in any road, street, alley, stream, or public place in the political boundary of the COUNTY to immediately dispose of the dead animal in a manner which complies with public health regulations.

13. ENFORCEMENT OFFICER

There is created hereby the Office of Solid Waste Enforcement, which may be filled by appointment of the County Judge/Executive. The Solid Waste Enforcement Officer shall be charged with enforcement of this Ordinance and shall be a bonded peace officer serving at the pleasure of the County Judge/Executive.

PENALTIES

35. The violation of any provision of this Ordinance shall be punishable, upon conviction, by a fine of not less than \$250.00, thirty (30) days imprisonment, or both. Each day that a violation continues to exist shall be considered a separate and distinct violation. The provisions for this section are in addition to and not in lieu of any criminal prosecutions or penalties as provided by the Commonwealth of Kentucky or the Federal Government.

SEVERABILITY

36. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not effect the validity of the remaining portions hereof.

CONFLICTS

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37. Any and all ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed, otherwise, they remain in full effect.

EFFECTIVE DATE

38. This Ordinance shall become effective as of the second reading and publication.

PASSED AND APPROVED THIS 15th day of October, 2002.

Denny R. Noble
Denny Ray Noble,
County Judge/Executive

ATTEST:

Shawn Adams
Perry County Fiscal Court Clerk

Approved as to form and legality:

Lenny Combs