

ORDINANCE NO. # 2 -90

AN ORDINANCE TO PROTECT THE HEALTH AND SAFETY OF THE CITIZENS OF Franklin Township ITS ENVIRONMENT BY THE REGULATION OF RADIOACTIVE WASTE FACILITIES AND TRANSPORTATION OF SUCH WASTE, TO PREVENT EMISSIONS OF RADIOACTIVE GASES, PARTICULATES, MISTS, VAPORS AND OTHER MATTERS; TO PROVIDE FOR THE ADMINISTRATION OF THE ORDINANCE BY APPOINTMENT OF CONTROL AND INSPECTION OFFICERS AND INSPECTORS; REQUIRING PERMITS, BONDS AND FEES; AND TO PROVIDE FOR THE ENFORCEMENT INCLUDING PENALTIES FOR VIOLATIONS.

ARTICLE I - TITLE

Section 1: This Ordinance shall be known and may be cited as the Radioactive Waste Ordinance of Franklin Township .

ARTICLE II - PURPOSES

Section 2: The purposes of this Ordinance are:

- a) To protect the health, safety, and general welfare of all Township citizens and other persons by preventing exposure to airborne radioactive substances;
- b) To preserve the natural environmental qualities of all land and its flora and fauna within the Township;
- c) To preserve and protect agriculture and agricultural related activities and to preserve a productive base and climate for future generations.
- d) To promote the sustainable economic well-being of the Township by preservation of camping, hunting, fishing, and other recreational opportunities for tourists;
- e) To protect against the infliction of psychological or emotional stress on Township citizens from the reasonable fear of exposure to radiation; and
- f) To preserve the values of a healthy environment for future generations.

Any interpretation of this Ordinance shall give priority to the purposes stated in this Section over such considerations as economics, efficiency, and scheduling factors.

ARTICLE III - DEFINITIONS

Section 3: The following terms shall have the meanings defined in this section wherever they are used in this Ordinance:

- a) "Above Ground Facility" is a facility above grade level constructed with triple dedicated engineered barriers isolating the contents from the environment.
- b) "Active Institutional Control Period" is the period of time during which active surveillance, monitoring, and care is maintained, which shall extend to thirty years after the estimated hazardous life of the waste.
- c) "Benefits and Guarantees Teams" means two (2) separate teams with a minimum of seven (7) individuals on each team, who shall be appointed by local officials with the assistance and recommendation of the local Environmental Protection Committee. Said teams may be deemed a part of said local Environmental Protection Committee, or any member of that Committee may serve on either team. Said teams shall avail themselves to consultants who possess the technical and specialized information deemed appropriate and necessary to perform their function and role.
- d) "Buffer Zone" is the portion of the waste site that is controlled by the licensee and that lies under the waste units, and between the waste units and the site boundary.
- e) "Compact States" are Pennsylvania, Delaware, Maryland and West Virginia.
- f) "Container" is the first sealed leak-proof solid enclosure which encompasses the radioactive waste, and which may include a means for controlled bleeding of gaseous decay products into another container.
- g) "Containment" means the isolation of radioactive substances and radiation from the biosphere by means of engineered barriers and waste site design.
- h) "Controlling Officer" means an individual who is or shall become a permanent resident to be chosen by the host municipality whose full compensation shall be reimbursed to the Township by the operator. The basic minimum qualifications for employment shall include the highest appropriate formal training and

experience available. This individual will be required to remain current and abreast of issues and information affecting the disposal of nuclear waste.

i) "Facility Records"--means all information regarding origin, contents, transport, and other relevant data for all low-level radioactive waste.

j) "Fill" means fill, grout, or other material which is placed in void spaces between radioactive waste containers or waste modules within the waste unit to provide structural strength against subsidence and collapse.

k) "Hazardous Life" means the amount of time that it takes for the LLRW to decay to levels so that unrestricted use of the site could not result in exposure to total radioactive levels higher than the radioactive levels measured at the site prior to the site being used for storage.

l) "Leak-Proof" means the engineered design features which eliminate the inflow or outflow of solid, liquid, or gas by any means, including selective absorption and adsorption, or ion exchange, except into a container through a control valve.

m) "Low-Level Radioactive Waste (LLRW)" means radioactive waste as defined in Section 11(e) (2) of the Atomic Energy Act of 1954, codified as amended at 42 U.S.C. §2014 (e) (2), or in the Pennsylvania Low-Level Radioactive Waste Disposal Act, Act 1988-12, 1988 Pa. Legisl. Serv. 23 (Purdon ("LLRWDA")), whichever is more exclusive.

n) "Mixed Waste" means Low-Level Radioactive Waste that either 1) contains hazardous waste listed in the Code of Federal Regulations, 40 CFR Part 261, subpart D; or 2) exhibits any of the hazardous characteristics identified in 40 CFR Part 261, Subpart C.

o) "Monitoring Zone" means a ten (10) mile radius from the center of the waste site.

p) "Operator" is any person or entity that stores radioactive waste or maintains a radioactive waste facility or any part thereof in Franklin Township.

- q) "Ordinance" means the Radioactive Waste Ordinance of Franklin Township and any subsequent Amendments thereto.
- r) "Public Access to Information" means a public library which is stocked with historical and current information related to low-level nuclear waste, preservation of the environment, protection of the people, flora and fauna, and all matters related to the health, safety, and welfare of the host municipality. All expenses related to the establishment, operation, and/or activity shall be determined by the host municipality and shall be at the sole expense of the operator.
- s) "Qualified Inspector" means an individual who is or shall become a permanent resident and shall have equal or better qualifications as the Controlling Officer and shall have full access to any laboratory or technical equipment required to perform any and all related monitoring of operations, whose full compensation shall be reimbursed to the host municipality.
- t) "Required Records" means independent daily water well, surface water, soil, gas and oil well, plant, and continuous air sampling, as well as human and animal health surveys or tests as shall be recommended or requested by an individual or recognized health practitioner. Such required records shall be kept regarding the waste facility, waste site, and the area within the host as well as affected municipalities. Such data collection shall commence with the siting and be required and directed by the host municipality. A copy of these records shall be made available through the Public Access to Information. Any costs associated with such required records shall be borne by the operator.
- u) "Required Services" means fully funded and appropriately trained fire, emergency, medical, support, transportation, development, maintenance, and environmental resources personnel, along with necessary staff, facilities and equipment and other benefits deemed necessary which shall be provided at the sole expense of the operator for the welfare of the host and affected municipality residents. Such benefits shall be fully in place and functioning prior to the operation of the disposal facility, free to the recipients, and shall continue through the Active Institutional Control Period.

- v) "Significant Threat" means a threat of causing injury by the following conduct: violating any Federal or Pennsylvania environmental quality standard; contaminating groundwater, surface water, flora, fauna or air so as to pose an immediate or latent hazard to human health by exposure to substances that cause human life-shortening injuries, e.g., a long-latency cancer, or disabilities, or that cause kills of fish or wildlife; threatening the viability of an endangered species or any species placed on a "threatened" or "special concern" list; contributing to an accumulation of hazardous toxic substances in fish or wildlife, so that such fish or wildlife are rendered unfit for human consumption; or disrupting a food chain in an ecosystem.
- w) "Tipping Fee" means any additional amount per unit of waste (cubic foot, curie content, or a combination of the two) paid by the operator directly to the host municipality.
- x) "Township" means Franklin Township, Erie County, Pennsylvania.
- y) "Triple Dedicated Engineered Barrier" means the three leak-proof structures, referred to in this Ordinance as a container, waste module and waste unit, each of which independently insures the containment of radioactive waste from the environment for the hazardous life of the waste.
- z) "Waste Facility" means the containers, waste units, administrative and support facilities, other buildings, equipment, and engineered features on a site where radioactive waste is stored, including all improvements thereon.
- aa) "Waste Module" means a second leak-proof engineered structure harboring the containers within a waste unit.
- bb) "Waste Site" means the land on which the waste facility is located, including the buffer zone.
- cc) "Waste Unit" means a third leak-proof engineered structure which contains waste modules.
- dd) "Well Sampling" means the number of test wells to be drilled at appropriate depths around the perimeter of the waste site as well as public and all private wells of residents of the host or affected municipalities.

ARTICLE IV - AUTHORITY

Section 4: This Ordinance is adopted and enacted pursuant to the authority granted to the Township by all relevant state and federal law including but not limited to the following:

- 1) Pennsylvania Constitution, Article I, §27;
- 2) The provisions of the Second Class Township Code, Article VII, as codified in 53 P.S. §65701, et. seq., authorizing the Township to enact ordinances dealing with, inter alia, the protection of the health of township residents, regulation of refuse materials and nuisances, and promotion of public safety;
- 3) Pennsylvania Air Pollution Control Act, 35 P.S. § 4001, et. seq.;
- 4) Pennsylvania Local Tax Enabling Act, 53 P.S. § 6901, et. seq.;
- 5) Appalachian States Low-Level Radioactive Waste Compact Act 1985, 35 P.S. § 7125.1 et. seq.;
- 6) Pennsylvania Low-Level Radioactive Waste Disposal Act, Act 1988-12, 1988 Pa. Legisl. Serv. 23 (Purdon) ("LLRWDA");
- 7) Clean Air Amendments of 1977, 42 U.S.C. §§ 7416, 7422.
- 8) Low-Level Radioactive Waste Policy Act Amendment of 1985 and in effect as of January 1, 1986.

ARTICLE V - SITING, PERFORMANCE, DESIGN, AND OPERATION OF WASTE FACILITY

Section 5.1: Siting.

- a) A waste site shall have geological characteristics such that all applicable state and federal emission requirements may be met without the use of dedicated engineered barriers, other than the entrance described in Section 5.3(b) of this ordinance.
- b) There shall be no active or inactive water wells, gas or oil wells, brine wells, or other underground storage areas on the waste site.
- c) Surface features of the waste site shall be designed to direct water drainage away from waste units at velocities and gradients which will not result in erosion. No water shall drain from the waste site to

any off-site location or into an aquifer. Water shall be collected into an appropriate holding facility until tested safe for drinking purposes.

- d) No waste site shall be located in recharge zones for sources of local drinking water, headwaters of any waterway, wetlands, flood plains or habitats of endangered, threatened, or special concern species.
- e) No waste site shall be located within an Agricultural Area as designated pursuant to the Act of June 30, 1981 (P.L. 128, No. 43), and any subsequent amendments thereto, known as the "Agricultural Area Security Law."

Section 5.2: Performance.

- a) No radioactive emissions into the outdoors atmosphere from a waste site within Franklin Township shall exceed, or cause exposures which exceed, applicable federal law, the standards adopted pursuant to this Ordinance, or any other law adopted under the authority of the Commonwealth of Pennsylvania.
- b) The operator of a waste facility shall perform active and passive monitoring which shall detect any releases of radioactive substances into the buffer and/or monitoring zone, as well as releases from waste modules, waste units, and from the waste site, for the Active Institutional Control Period, and provide continuous verification of performance satisfactory to the Controlling Officer and local officials.
- c) The waste facility must be designed and operated to achieve containment for the hazardous life of the waste. Prior to construction, the waste facility design shall be modeled and analyzed to demonstrate that its performance and its interactions with the environment at the waste site are consistent with this Ordinance. The facility design shall demonstrate that radioactive waste containment can be maintained for any maximum disruptive external event, including a worst case accident scenario.
- d) The waste facility design and operation must be upgraded as safer technologies are devised and satisfactorily demonstrated.
- e) There shall be continuous, appropriate monitoring, and security of the waste facility by qualified,

trained personnel twenty-four (24) hours per day commencing with construction and continuing for the Active Institutional Control Period under the direction of local officials at the sole expense of the operator.

Section 5.3: Design

- a) A waste facility shall be designed for zero release of radioactive waste into effluents, and shall not permit liquid or gaseous infiltration through any engineered cover, bottom, side or entrance.
- b) The waste facility shall be an above ground facility mounded with earth and a cap for tornado protection with a sealed entrance permitting access so that leaking containers can be easily and safely located and removed.
- c) Neither the containers nor the waste modules are to be covered by any type of fill that would cause loss of integrity of the containers or the waste modules if recovery of the waste is undertaken.

Section 5.4: Operation

- a) The waste facility shall only accept waste with those physical and chemical properties for which it is designed and which it is capable of containing for the hazardous life of the waste. All facility records and other required records shall be retained for the Active Institutional Control Period. Facility records shall be forwarded to the Controlling Officer no later than the first Monday of each month or as requested.
- b) All classes of waste shall be segregated from each other unless they were mixed as they were generated. Generation practices shall be conducted to minimize mixing. Classes of waste A, B, and C, and mixed waste, as defined in 10 CFR § 61.55 (1989), shall be contained for their hazardous lives. No waste greater than Class C shall be accepted even though it may have been diluted to a lower level of radioactivity.
- c) No radioactive materials generated outside the Appalachian Compact states and not designated as

waste prior to shipment into Pennsylvania or other Compact States, but thereafter declared to be waste, shall be disposed of or stored in Franklin Township except as provided by LLRWDA, § 309. No waste generated outside the United States shall be disposed of or stored in Franklin Township even if the company generating the waste has its corporate headquarters, is incorporated, has offices, receives such waste at its facilities, or through a port of entry in one of these Compact states.

- d) In the event radioactive substances from the waste facility contaminate any area outside the waste site, the operator shall clean up all contamination and shall restore all such contaminated areas to their pre-existing and non-contaminated state.
- e) The LLRW facility shall accept waste for no more than thirty years. NO additional radioactive waste shall be stored, disposed of, or treated anywhere in Franklin Township after that thirty year period.
- f) Routine operations of said waste facility shall be conducted solely between the hours of 9:00 A.M. and 5:00 P.M., Monday through Friday, excluding any legal holidays. Acceptance of waste by the operator at the waste facility not in accordance with the guidelines established by this Ordinance, shall result in immediate cessation of operations.

ARTICLE VI - AIR POLLUTION CONTROL STANDARDS

Section 6.1: No person shall own, operate, or modify any radioactive waste facility so as to allow the direct or indirect release of radioactive substances into the air, whether in gaseous, particulate, mist, vapor, or other form, or through any pathway, except in compliance with air pollution control standards included in a permit to be obtained from the Controlling Officer prior to operation, pursuant to Article IX of this Ordinance.

Section 6.2.: Any person seeking to obtain a permit pursuant to this Ordinance shall state in its permit application to the Controlling Officer the chemical and physical forms, specific isotopes, half life, and number of curies of each substance expected in the radioactive air

emissions, along with the appropriate formulas for calculating the weight equivalent to one curie, and the number of millirems associated with potential exposures to one curie for each such substance.

Section 6.3: The Clean Air Committee established under Section 8.6 of this Ordinance shall determine, after notice and hearing, whether the expected radioactive air emissions stated in the application will present a significant threat of hazard to life, health or property. If the Clean Air Committee determines that the expected emissions stated in the application will not present such a threat, then it shall report to the Controlling Officer that the expected emissions included in the application form shall be included in the permit as the applicable air pollution control standards. Otherwise, the Committee shall establish such radioactive air pollution control standards necessary to avoid a significant threat, which standards shall be included in the permit.

Section 6.4: The Controlling Officer shall enforce such air pollution control standards as the Committee may establish, and may approve a permit application when satisfied that all requirements of this Ordinance are fulfilled.

Section 6.5: A material breach of this Section shall be grounds for revocation of the Clean Air Permit and enjoining further receipt of materials into the facility until the Controlling Officer is satisfied that no further such breach will occur.

ARTICLE VII - TRANSPORTATION

Section 7.1: Transporters of radioactive substances to a waste site or waste facility in Franklin Township must obtain a Certificate for Hazardous Transport from the Controlling Officer for each year of operation. An applicant for such a Certificate shall submit a description of, and the safety record for, the transportation firm, each vehicle and individual driver, who must possess ten (10) years over-the-road experience. Grounds for denying a Certificate for transporting radioactive substances into Franklin Township shall include, but not be limited to, a poor safety record, failure to disclose significant safety information, inadequate insurance, or inadequate compliance with the requirements of this Article.

Section 7.2: An application for a Certificate for Hazardous Transport must include the following documentation:

- 1) Characterization and percentage content of the radioactive substances by name, curie content, toxic nature and potential;
- 2) Names of all sources and brokers of the radioactive substances, under all corporate names (showing corporate relationships), addresses and telephone numbers;

- 3) An emergency and evacuation plan in the event of a road accident within the Township, including a twenty-four (24) hour emergency telephone number.---

Section 7.3: Upon receipt of a Certificate for Hazardous Transport, the transporter shall pay a fee to the Township to be determined by Board of Supervisors on recommendation of the Controlling Officer. The fee shall reflect the administrative costs of granting the Certificate, the relative hazard and potential risk to public health and safety due to the transported cargoes, and the costs to the Township of monitoring and protecting against those risks. The fees shall be deposited in the Hazardous Materials Transport Emergency Fund, which shall be used for purposes related to transport of radioactive substances.

Section 7.4: The Controlling Officer or other authorized official may stop and inspect any vehicle transporting radioactive substances into the Township to determine compliance with this Ordinance and may turn back any such vehicle that presents or is suspected of presenting a significant threat.

Section 7.5: All highway vehicles, including but not limited to trucks, tractors, and trailers hauling radioactive substances to a waste site must display a current Pennsylvania State Inspection Sticker.

Section 7.6: Rail transport must observe and obey all applicable federal and state laws; and off the main line must utilize automatic gates at all grade crossings; observe a ten (10) mile speed limit; shall not be off-loaded within the Township except at the waste site; no rail car may be handled on any spur without a charged train line; all railroad cars must be equipped with an operating hand brake and hand brake must be applied when spotted; there must be a derail at the point of origin to the waste site and shall be on at all times.

Section 7.7: Transporters must travel approved, pre-designated routes within the Township to be established by local officials. Routes must be planned, established, constructed, upgraded, and maintained at the sole expense of the operator. All transporters must be individually escorted by personnel designated by local officials. Transporters must observe and obey all highway, road and bridge weight limits and other applicable laws, and all applicable federal, state and local laws. Transporting shall cease during times school buses are in operation; during any inclement weather conditions, including but not limited to rain, sleet, ice, snow, or blizzard conditions; during any weather advisory period, and during any fog, low visibility conditions; and during any severe weather watches or warnings. Hours, to be established, shall be limited to daylight only.

ARTICLE VIII - ADMINISTRATIVE FUNCTIONS

Section 8.1: The Franklin Township Supervisors appointed administrative officials, and the Controlling Officer shall perform all administrative duties and exercise all administrative powers of the Township conferred by this Ordinance or by LLRWDA § 502.

Section 8.2: The Controlling Officer's duties are as follows:

- 1) The Controlling Officer may appoint, upon consent of the Supervisors one or more Local Inspectors, and delegate to them all or any powers conferred to said Controlling Officer by this Ordinance or by LLRWDA § 502.
- 2) The Controlling Officer may assist and advise the two Host Municipality Benefits and Guarantees Teams, with the approval of the Supervisors. One team shall negotiate only the financial benefits and guarantees with the operator. The other team shall negotiate only the health, safety, environmental and other benefits and guarantees with the operator. It shall be prohibited to trade a benefit or guarantee negotiated by one team for a benefit or guarantee negotiated by the other team. Any and all expenses incurred by members of the Teams shall be borne by the operator.
- 3) The Controlling Officer and one designated official shall be notified one (1) month in advance of any meetings being held that address issues pertaining to the storage, disposal or treatment of LLRW in Franklin Township. Those local representatives shall have the right to attend all meetings and all sessions of those meetings and shall have the same powers and authority as other members of the committees.

Section 8.3: The initial salaries of Township administrative officials allocable to duties involving the evaluation of an application to operate a radioactive waste facility shall be paid from a fund established pursuant to LLRWDA, § 318.

Section 8.4: All information concerning the waste facility and/or waste site which would be available under the federal or state "right to know" laws shall be routinely provided to

the Controlling Officer by the operator and be made immediately available by the Public Access to Information as defined.

Section 8.5: The Controlling Officer and/or Qualified Inspector shall exercise all powers under LLRWDA, § 502. These individuals shall be empowered to enforce the provisions of this Ordinance by appropriate remedy including injunctions for the abatement of a nuisance.

Section 8.6: The Township Supervisors shall appoint a Local Clean Air Committee ("Local Committee"), which shall, in accordance with this Ordinance and upon notice and hearing, establish standards for radioactive air emissions, whether in gaseous, particulate, mist, vapor, or other form, or through any pathway, sufficient to protect the health, safety, and welfare of the public, with an ample margin of safety. The operations of the Local Committee shall be funded from application and permit fees, which shall cover payment of the costs of experts in monitoring and assessing health effects of radiation, and the cost of conducting hearings, collecting information and preparing a final report by the Local Committee.

Section 8.7: The Township Officials may appoint other local boards, authorities, departments, commissions, or committees deemed necessary, whose compensation and/or related expenses shall be borne by the operator. Their responsibilities shall include, but not be limited to, the supervision and on-going establishment of requirements which insure effective operational compliance and strict adherence to this Ordinance for the protection of the health, safety, and welfare of the citizens and their environs. Responsibilities shall also mean consultation and access to information which would keep them abreast and current on all matters. Appointments shall commence with the siting process and may continue throughout the Active Institutional Control Period.

ARTICLE IX - CLEAN AIR PERMIT

Section 9.1: No radioactive substance or waste generated by any governmental agency or pursuant to a federal or state government contract or license nor as defined in the Nuclear Regulatory Commission (NRC) Section 11 (e) (2) of the Atomic Energy Act of 1954, codified as amended at 42 U.S.C. § 2014 (e) (2) in the Low-Level Radioactive Waste Policy Act Amendment of 1985 and in effect as of January 1, 1986, or in

the Pennsylvania Low-Level Radioactive Waste Disposal Act, Act 1988-12, 1988 Pa. Legisl. Serv. 23 (Purdon) ("LLRWDA"), that may be redefined as an expanded exemption, below regulatory concern (BRC) or otherwise deregulated by the NRC or any other federal agency shall be received for treatment, recycled, incinerated, deposited in sewers or accepted at any solid, liquid or hazardous waste facility. All LLRW as specified above shall be deposited at a LLRW facility holding a Clean Air Permit under this Ordinance.

Section 9.2: Applications for a Clean Air Permit under this Ordinance shall be filed with the Township Secretary, who shall issue a permit upon approval of the application by the Controlling Officer, Local Committee, and Qualified Inspector.

Section 9.3: In addition to the information required by Section 6.2 hereof, an application for a Clean Air Permit must be accompanied by the following³³ documentation:

- 1) A site plan identifying the location and function of all structures on the waste site;
- 2) Proof of ownership of the site, or a contract conveying rights to the site by the owner;
- 3) A property survey of the site by a registered licensed surveyor showing contours of five foot intervals, description of perimeter land use within a two mile radius of the site, and proximity to any structure, or other feature such as stream or well, within 1000 feet of the waste site;
- 4) All necessary licenses and permits from state and federal agencies, along with the associated application materials submitted to those agencies;
- 5) Approval of an emergency control and evacuation procedure plan by the Township Supervisors after public hearing;
- 6) An environmental impact study as defined in N.E.P.A., § 102(2) (c), 42 U.S.C. § 4332, which shall also include, but not be limited to, consideration of the following: site specific soil analysis on 50' grid, core sample to bedrock,

leachate analysis; titles, easements and dedications; oil, gas and mineral rights; hydrology of the site, ground water, aquifers; fauna habitat and migratory survey; storage of fuel; security police, fire and medical qualifications; a radiation background study based on monthly sampling data for three (3) years prior to the date of application; meteorology, topology and predicted deposition patterns of airborne pollution; an assessment of risk of experiencing one fatality per one million population, which must include calculations of maximum concentrations of contamination under emergency conditions, such as a worst case accident scenario or the failure of an air pollution control unit;

- 7) Baseline health studies of the entire population of the Township and of the affected municipalities within a ten mile radius shall be conducted for three years prior to the date of application. All data shall be made available, free of charge, to Township officials and any resident of the public upon request.
- 8) An evaluation of the class, quantity, and nature of all wastes to be stored at the waste facility, including the chemical and physical forms, specific isotopes, number of curies, and half-lives.

Section 9.4: At the time the application for a Clean Air Permit is submitted by the operator, pursuant to Sections 6.2, 6.3, 8.6, 9.2 and 9.3, the operator shall pay a fee of \$100,000.00 or such other amount as shall be determined by the Township Supervisors on recommendation of the Controlling Officer to fully cover all the administrative costs to the Township related to the application and permit, including all costs associated with the determination of a radiation emission standard under Section 8.6 of this Ordinance, and the acquisition by the Township of supplemental monitoring capacity.

ARTICLE X - ANNUAL FEES AND COSTS

Section 10.1: Each operator of a waste facility licensed hereunder shall pay to the Township an annual fee of ten percent (10%) of the annual gross receipts associated with the operation of the facility, but no less than \$100,000.00 per annum or such other minimum payment as may be

determined, after notice and opportunity for hearing before the Controlling Officer and other designated officials. The fee shall be deposited into a Special Fund to reimburse the Township for all municipal costs associated with the operation of the facility, such as fire and safety preparedness, road maintenance, inspection and regulation, monitoring, natural resource maintenance, self insurance for the risk of loss to the Township, quality of life expenditures to offset stress of living near the waste facility, the administration of this Ordinance, and other purposes stated in LLRWDA, § 318(F).

Section 10.2: Analysis of municipal costs associated with the operation of the facility will be made by the Controlling Officer, and other designated officials, who will make recommendations to the Township Supervisors for any such adjustment as may be necessary to assure that the percentage fee is directly related to such costs, including a reasonable reserve for possible future costs to the Township during any phase of the Active Institutional Control Period when gross receipts might decline below costs.

Section 10.3: Adjustments made to the annual fees and tipping fees after analysis of municipal costs and required services may be applied so as to increase or decrease the annual fees and/or tipping fees for subsequent years.

Section 10.4: The operator shall pay for any legal and accounting costs which result from the challenge of any action taken pursuant to this Ordinance by the Township, by any of its officials, or citizens of the host or affected municipalities.

Section 10.5: The municipality shall require an annual audit and appoint an independent auditor to review all necessary and appropriate records to assure compliance and accurate accounting related to the operation of the waste facility; related costs to be borne by the operator.

Section 10.6: Any fees, surcharges, costs, and expenses provided for herein shall be paid bi-weekly by the operator to the municipality. Those monies due that are based on gross annual receipts shall be estimated and such estimates shall not be less than ninety percent (90%) of actual gross income from January through November. All monies due shall

be paid in full by December 31 of each calendar year. All operations shall immediately cease for non-compliance with this requirement. Operations shall not resume until all monies are paid in full, plus additional interest at the highest current rate allowable by law, plus an additional default rate of a minimum of twenty-five percent (25%), or the highest possible default rate allowable by law.

Section 10.7: The operator shall pay a surcharge of five percent (5%) of the gross annual operating budget to the host municipality which shall be placed in a "special-fund account" invested in the safest, highest, interest-bearing account or Treasury Bills to be used for the sole benefit of any landowner or full time resident of the host or affected municipality to cover related medical expenses incurred due to inadequate operations or accidents. In the event of a major accident, such residents shall be fully reimbursed for any and all property at the full market value adjusted for inflation that would have existed in the absence of siting any Low-Level Nuclear Waste Facility in the area.

Section 10.8: The operator shall be responsible for payment of school district and property taxes for all individuals whose primary residence is within the host or affected municipality for the operational life of the facility. In addition, any landowner in the host or affected municipalities will be guaranteed the sale of property or purchase by the site operator at property values at the full market value adjusted for inflation that would have existed in the absence of siting any Low-Level Nuclear Waste Facility in the area.

ARTICLE XI - PENALTIES AND LIABILITIES

Section 11.1: Each person who knowingly commits any violation of the provisions of this Ordinance, or who owns or operates a waste facility in which any violation of this Ordinance is committed, shall be liable on conviction thereof to a penalty of not less than One Thousand Dollars (\$1,000.00) for each offense. Whenever such person shall have been notified of a violation of this Ordinance which involves a significant threat of harm to human life, and continues such violation, a civil penalty shall apply, not to exceed \$50,000.00 for each offense.

Section 11.2: Each day that a violation which involves a significant threat of harm to human life continues shall

constitute a separate offense. In the event a violation of this Ordinance involves the emission of radioactive substances in the environment, each millirem of radiation, or part thereof, in excess of the Clean Air Permit air pollution control standards resulting from such emission shall constitute a separate offense.

Section 11.3: Prior to issuance of a permit, the operator shall furnish a bond for payment to the Township of penalties, fees and any other liabilities that may arise from the activities regulated by this Ordinance in an amount to be determined by the Controlling Officer and other designated officials after notice and hearing.

Section 11.4: Generators of any waste stored in the Township, transporters of such waste, the operator of a waste facility, or any other person who causes damage to person or property in the Township as a result of dealing with radioactive waste shall be strictly liable for all such damages, and shall also be liable for any negligence and gross negligence, without limitation. Liability insurance satisfactory to the Controlling Officer and other designated officials shall be provided by the operator and shall apply to sudden and non-sudden bodily injury or property damage on, above, or below the surface. The insurance shall be sufficient to restore any contaminated property to its pre-existing and non-contaminated state.

ARTICLE XII - MISCELLANEOUS PROVISIONS

Section 12: In the event Franklin Township is not the host municipality, but becomes an affected municipality as defined in LLRWDA § 103 and § 318, and in the absence of an equally stringent ordinance for protection in said host municipality; this Ordinance shall take precedence and become in effect and govern in all respects as it relates to the health, safety, and welfare of the citizens of Franklin Township and their environs.

ARTICLE XIII - SEVERABILITY

Section 13: Should any section or provision of this Ordinance be held invalid, such ruling shall not affect the validity of the Ordinance as a whole, or any other part hereof, and the section or provision declared invalid or unconstitutional shall be deleted as if it had never been a part hereof.

ARTICLE XIV - EFFECTIVE DATE

This Ordinance shall become effective five (5) days after enactment.

ENACTED this 13th day of November, 1990.

FRANKLIN TOWNSHIP BOARD
OF SUPERVISORS

B. J. Sitek

Chairman

ATTEST

Herbert H. Neff

Supervisor

Francis J. Burkhardt
Secretary

Supervisor