

BYLAWS OF THE BERKELEY COUNTY SOLID WASTE AUTHORITY

ARTICLE I – NAME

The name of the organization shall be “Berkeley County Solid Waste Authority”, hereinafter referred to as the “Authority”.

ARTICLE II- PURPOSE

The Authority adopts the findings of the WV Legislature and finds that the potential impacts of proposed commercial solid waste facilities may have a deleterious and debilitating impact upon the transportation network, property, values, economic growth, environmental quality, other land uses and the public health and welfare in the affected community. Therefore, the primary purpose of the Authority shall be to address and resolve issues involving solid waste at the local level by maximizing public involvement and by resolving such solid waste issues with reduction measures, reuse techniques, recycling, and composting with landfilling or incineration as the options of last resort.

ARTICLE III - OFFICE (S)

The principal office of the Authority shall be located at Grapevine Road, Martinsburg, Berkeley County, West Virginia.

ARTICLE IV – SEAL

The official seal of the Authority shall be circular in form and shall have inscribed thereon the name of the Authority and the year of its creation. Said seal may be used by causing it or a facsimile thereof to be impressed on, affixed to or otherwise reproduced on any document, instrument or writing.

ARTICLE V – MEETING

Section 1: Regular Meetings. The Authority shall meet at such times and places as it or the Chairman may determine. Notification of a regular meeting will be mailed to each Authority member at least forty-eight (48) hours prior to the meeting. The notice shall set forth the purpose of such regular meeting.

Section 1A: Procedure at Meeting. At the regular meetings of the Authority the following shall be the order of business:

- (a) Call to Order
- (b) Roll Call
- (c) Agenda Approval
- (d) Approval of minutes of previous meeting(s)
- (e) Reports
- (f) Business Items
- (g) Other Business Items
- (h) Public Comment
- (i) Adjournment

In all other respects not otherwise specifically provided for in these By-Laws, Roberts' Rules of Order shall generally govern the conduct of all meetings of the Authority. The Chair will rule on points of order and may consult with any person with knowledge of Roberts' Rules of Order.

Section 2: Special/Emergency Meetings. Special and/or Emergency meetings of the Authority may be called at anytime by the chairman. Upon the written request of any three members of the Authority, the Chairman shall call a special and/or an emergency meeting to be held not more than seven days after the receipt of such request. Notice of the special/emergency meeting shall set forth the purpose(s) of such meeting.

Section 3: Adjournment. Any regular, special or emergency meeting of the Authority shall be adjourned to the predetermined date, hour and place of the next regular meeting.

Section 4: A quorum shall be the physical or electronic presence consisting of the chair or vice-chair and any two members of the Authority.

Section 5: Manner of voting. The voting on all questions at meetings of the Authority shall be by yeas, nays or abstentions and the vote of each member present and voting shall be entered upon the minutes of such meeting, except that the election of officers need not be accompanied by entry of the individual votes upon the minutes.

Section 6: Proxy Voting. Voting by proxy shall not be permitted for any purpose.

Section 7: Public Notice. Whenever notice of any regular meeting is required to be given to any member of the Authority, such notice shall be given in writing by First Class Mail or by E-Mail, at least forty-eight hours (48) before such meeting and addressed to each member at the address as it appears on the books of the Authority, or, in default of such address, to a public member at his official state office and to a private member at his residence or usual place of business. Such notice shall be deemed given at the time when the same shall be thus mailed, telephoned or delivered, as the case may be.

The agenda of any meeting must be printed on Authority letterhead and posted on the door of the Authority office in a manner visible to the public. The agenda shall act as the public meeting notice of all meetings. At a minimum, the meeting agenda must include the date, time, place; and purpose of said meeting. For the purposes of calculating the number of days for public notice, the day of the meeting is not counted and Saturdays, Sundays and legal holidays are excluded. Notice of said meetings shall be made available to the public according to following schedule

REGULAR MEETINGS: The agenda must be posted to the public a minimum of 72 hours in advance. Notwithstanding any of the provision of this section, the Authority shall meet a minimum of six (6) times annually.

SPECIAL MEETINGS: The agenda must be posted to the public a minimum of 24 hours in advance. Discussion can only include matters specifically designated on the agenda.

EMERGENCY MEETINGS: The agenda must include only the item(s) of emergency. Public notice must be posted no later than at the initiation of the meeting.

Any amendments to the Agenda must be made no later than 2 days prior to the meeting and must be made available to the public in the same manner as the original agenda. No amendment to the Agenda may be made less than two days before a meeting, unless it is to deal with an emergency matter. Routine matters that come up after the deadline for issuing an amendment has passed must be held over to the next meeting. If an Agenda is amended to accommodate action on an emergency matter the meeting minutes must explain the facts and circumstances of the emergency. Except in emergency situations, the Board shall not act on an issue raised in the public comment period unless it is listed specifically on the Agenda. If official action by the Board is required the issue shall be placed on the Agenda and addressed at a subsequent meeting.

Section 8: Waiver of Notice. Any notice, except the public notice, required to be given under these By-Laws may be waived in writing, and must be recorded in the minutes of such meeting, whether before or after the time stated therein.

Section 9: Action by Written Agreement. Whenever the vote of members of the Authority, at a meeting thereof, is required or permitted to be taken in connection with any corporate action, the meeting and vote of such members may be dispensed with if all the members shall agree in writing to such corporate action being taken, and such agreement shall have like effect and validity as though the action were duly taken by unanimous action of all members at a meeting of such members of the Authority duly called and held.

ARTICLE VI - STATUTORY OFFICERS

Section 1: The annual election of the Chairman, Vice-Chairman, Secretary and Treasurer of the Authority shall be held at the regular meeting occurring in, or close to the month of July.

Section 2: Chairman. The Chairman shall be the Chief Executive Officer of the Authority, preside at all meetings of the Authority, sign the rules and regulations of the Authority and appoint any committees of the Authority and serve on such committees as an Ex-officio member. The Chairman shall create the meeting agenda and forward same to the Authority Secretary, or other designated person, for distribution. The Chairman shall protect his impartial position by exercising his voting right only when his vote would affect the outcome, that is, he can vote to break or to cause a tie, or in a case where a two-thirds or greater vote is required.

Section 3: Vice-Chairman. The Vice-Chairman, in the absence of the Chairman, shall act as and assume the duties of the Chairman of the Authority.

Section 4: Secretary. The Secretary shall keep the minutes of all meetings of the Authority, in accordance with the West Virginia Open Governmental Proceedings Act, Chapter 6-9A et seq.; give notice of meetings of the Authority as and when required by these By-Laws, and certify, when necessary, the records, proceedings, documents and resolutions of the Authority. The Secretary shall have charge of the seal, attested by their signature, to such instruments as may require the same. The Secretary shall have charge of the minute records and records of the proceedings of the Authority; maintain a separate record containing the By-Laws, rules and regulations, and resolutions of the Authority and shall perform such other duties as may be conferred upon them from time to time by the Authority.

Section 5: Treasurer. The Treasurer shall be custodian of all funds and securities of the Authority, shall keep full and accurate records and accounts of all receipts, disbursements, credits, assets, liabilities and general financial transactions of the Authority. The Treasurer shall endorse for collection or deposit to the credit of the Authority all bills, notes, checks, and other negotiable instruments of the Authority coming into his hands and deposit the same with all funds of the Authority in such accounts in such depositories and safe deposits as may be designated by the Authority. The Treasurer shall report all receipts and expenditures in writing to the Authority monthly and at such other times as the Authority may require. The Treasurer shall annually prepare and submit to the Authority at the close of each fiscal year a full and complete report in writing or statement of all monies received and expended and of the existing condition of the funds and assets of the Authority for such year. The Treasurer's books, accounts and records shall be subject to the inspection of the members of the Authority as a body at any time; and to audit by a resident independent certified public accountant or accountants selected by the Authority. The audit may be made annually at the close of each fiscal year and/or at such other times and for such other periods as the Authority may determine.

Section 6: The Board may appoint persons, who need not be a member of the board, to fulfill the functions and duties, in part or whole, of the Secretary and/or Treasurer. Any person who is designated as Treasurer must be bonded.

ARTICLE VII - OFFICERS AND EMPLOYEES OF THE BOARD OF DIRECTORS.

Section 1: Generally. The Authority may engage such consultants as it deems advisable at such compensation and with such duties and for such times as the Authority may from time to time prescribe.

Section 2: Personnel. The Authority may prescribe personnel guidelines, establish salary levels, by duly adopted general or special resolution, to hire employees of the Authority. All personnel promotions, salary increases, suspension, and dismissals must be authorized by the Authority, unless it empowers others to fulfill this function by duly adopted, joint or special resolution.

ARTICLE VIII – MISCELLANEOUS

Section 1: Fiscal Year. The fiscal year of the Authority shall commence on the first day of July and shall end on the next thirtieth day of June.

Section 2: Bonds. Such officers or employees of the Authority as may be required by law or by these By-Laws or as the Authority may require, conditioned as prescribed by Chapter 20, Article 9, Section 6 of the Code of West Virginia (1931, as amended). Premiums on such bonds shall be paid by the Authority and the bonds so furnished shall be filed with Secretary of State.

Section 3: Special Committee. The Chairman may, by duly adopted resolution, whether general or special, create a Special Committee of the Authority, the duties and membership of which shall be determined as set forth in these By-Laws or as prescribed by such or subsequent resolution, or designated by the Chairman of the Authority, or in his absence, the Vice-Chairman, the fulfill the duties of an Special Committee.

Section 4: Payment of Money. All bills, notes, check, drafts, acceptances or other instruments, and orders for the payment or withdrawal of any and all monies, credits, items and property at any time by any depository for the Authority's bankable papers and funds, except for matters and transactions relating to any monies granted or appropriated to the Authority by the Governor or the legislature of the State of West Virginia and held by the State in accounts subject to the State's fiscal responsibility or control, shall be signed or countersigned in such manner as from time to time may be prescribed by resolution whether general or special, of the Authority, by either the Chairman and the Secretary or the Treasurer, the Vice-Chairman and the Secretary or the Treasurer. The Authority's officers so named as aforesaid are hereby empowered to act jointly in the same manner on behalf of the Authority in all matters and transactions relating to the foregoing business with said depository.

The Chairman is hereby empowered to act on behalf of the Authority in all matters and transactions relating to any monies granted or appropriated to the Authority by the Governor and legislature of the State of West Virginia and held by the State in accounts subject to the State's fiscal responsibility or control, in such manner as from time to time shall be prescribed by resolution, whether general or special, of the Authority.

Section 5: Contracts. By resolution of the Authority, all agreements, deeds, instruments, contracts, documents, certificates and other writings of the Authority shall be signed by the Chairman or the Vice-Chairman, under the seal of the Authority, attested by the Secretary or the Treasurer, unless, by resolution of the Authority, other officers of the Authority are authorized to execute contracts or other obligations of the Authority.

Section 6: Indemnification. The Authority shall, to the fullest extent permitted by law, indemnify any person made, or threatened to be made, a party to any action or proceeding, other than a criminal action, by reason of the fact that such person, his executor or administrator, was a member of the Authority or an officer or employee of the Authority, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorney's fees, actually and necessarily incurred as a result of such action or proceeding (including any appeal therein), if (a) such member of the Authority, officer or employee acted in good faith for a purpose which he reasonably believed to be in the best interests of the Authority, and (b) it is not determined in such action or proceeding that such member of the Authority, officer or employee acted with willful or gross negligence.

Section 7: Conflicts of Interest. The Authority shall decline, reject or deny private grants, contributions, services or gifts that represent or have the appearance of representing an impropriety which could result in the temporary or permanent loss of public faith and trustworthiness. In the interests of both fairness and the appearance of impartiality, no Board member may hold ex parte communications, without prior authorization of the Board, with entities regulated by the Authority. No Board member may hold ex parte communications with entities under contract or potentially could become under contract with the Authority. Any member who conducts such ex parte communications shall abstain from all future motions and votes in all matters regarding the entity in question for the term of the members time on the Authority. Any member who derives or once derived income from any part of the solid waste industry shall disclose to the Authority the entity(s) and the purpose(s) from which the income arose. New Authority members shall make such disclosure within three months of appointment to the Authority. Existing Authority members shall make such disclosure prior to the income event.

Section 8: Severability. Whenever a section, subsection, subdivision, sentence or clause of these Bylaws is adjudged to be invalid, such adjudication shall not affect the validity of the remaining portions of these Bylaws, and, to this end, each provision of these Bylaws are hereby declared to be severable.

ARTICLE IX – VACANCY

The Authority may fill a vacancy in the office of any officer at any emergency, special or regular meeting of the Authority for any period of time determined necessary.

ARTICLE X – AMENDMENTS

The Authority shall have power to make, alter, amend, suspend and repeal By-Laws of the Authority by a vote of not less than three (3) members, after the second reading, at any regular or special meeting of the Authority.

Adopted April 17, 1989

Amended January 19, 2000

Amended September 20, 2000

Amended September 10, 2001

by [Signature] Chairman,
Berkeley County Solid Waste Authority

by [Signature] Secretary,
Berkeley County Solid Waste Authority

