

**BY-LAWS OF THE  
DELAWARE COUNTY  
SOLID WASTE AUTHORITY**

**ARTICLE I**

1.1. Definitions. The following words shall have the meanings given below when used in these By-Laws;

(a) “Act” shall mean the Municipality Authorities Act, Act of June 19, 2001, P.L. 287, as now or hereafter amended, 53 Pa.C.S.A. § 5601 *et seq.*

(b) “Authority” shall mean the Delaware County Solid Waste Authority established pursuant to the Act.

(c) “Board” shall mean the governing body of the Authority.

(d) “County Council” shall mean the governing body of the County of Delaware.

(e) “County” shall mean the County of Delaware, Pennsylvania. 1.2. Name. The name of the Authority shall be the Delaware County Solid Waste Authority.

1.3. Powers. The Authority shall have all powers granted to it pursuant to the Act and which may be exercised by it pursuant to the Act Without limiting the foregoing powers, the direct mission and purpose of the Authority shall be to provide solid waste management and recycling to the residents of Delaware County and to operate in a manner consistent with the Delaware County Municipal Waste Management Plan.

1.4. Existence. The existence of the Authority shall extend for the term provided in articles amending the Articles of Incorporation of the Authority.

1.5. Effective Date and Approval of By-Laws. These By-Laws shall become effective upon approval thereof by the Board.

## **ARTICLE II**

2.1. Office. The principal office of the Authority shall be located at 1521 N. Providence Road Media, Media, Pennsylvania, 19063. The Authority may establish and maintain such other offices as the Board may approve.

2.2. Seal. The seal of the Authority shall contain the name of the Authority.

## **ARTICLE III**

3.1. Governing Body. The powers of the Authority shall be exercised by the Board which shall consist of seven (7) members. In the event of Board vacancies, the powers of the Board may be exercised by the Board at any public meeting at which a least four members are present. Transactions and activities which are authorized or approved by the Board shall be carried forth in accordance with policies and procedures approved by the Board.

3.2. Term of Office. The term of office of each member of the Board shall be for a term of five (5) years commencing on the first Monday in January and expiring five (5) years thereafter, or until a successor is duly appointed.

3.3. Vacancies: Removal of Board Members. In the event any vacancy shall occur by reason of the death, disqualification, resignation or removal for cause of a member of the Board, County Council will appoint a successor Board member for the remainder of the unexpired term. Whenever a vacancy has occurred or is about to occur by reason of the expiration of the term of office of any Board member, County Council will appoint a member of the Board for a term of five (5) years from the expiration date of the prior term. Any member of the Board may be removed from the Board for cause in accordance with the Act.

3.4. Certification of Member. County Council will certify to the Authority the name and address of each member of the Board appointed by County Council.

3.5. Qualifications of Board Members. Each member of the Board shall be a citizen and resident of Delaware County. Members of the Board may succeed themselves.

3.6. Meetings. Regular meetings of the Board shall be held at such times and places as the Board shall direct. The Board shall determine, fix, and duly advertise the locations, dates and times for its regular meetings annually in January of that meeting year. Special meetings shall be held upon the call of the Chair of the Board; provided, however, that upon request of three (3) members of the Board, the Chair or Secretary shall call a special meeting. Notice of all regular or special meetings shall be given as required by law.

3.7. Organizational Meetings. The organizational meeting of the Board shall be held at a regularly scheduled meeting each year at which meeting the Board shall elect officers for the next calendar year and transact such other business as may come before it.

3.8. Nominating Committee. The Chair shall each year appoint a Nominating Committee from among members of the Board. The Chair may appoint themselves as a member of the Nominating Committee, provided, that the Nominating Committee may not (if the Chair is a member of the Nominating Committee) recommend the Chair for reelection as Chair. The report of the Nominating Committee shall be furnished to all Board members at least five (5) days prior to the regularly scheduled meeting at which the election of officers for the next calendar year shall occur.

3.9. Voting; Transaction of Business. Each member of the Board shall have one (1) vote. A majority of the members of the Board (or of any committee) then in office shall constitute a quorum of the Board (or of any committee) for the purpose of organizing and conducting business and for all other purposes. All actions of the Board (or of any committee) may be taken by vote of a majority of the members present unless in any case these By-Laws or the Act shall require a larger number. The Board shall have full power and

authority to adopt, amend and repeal policies, rules and regulations governing the manner in which the business of the Authority may be conducted.

3.10. Use of Conference Telephone and Similar Equipment. One or more Board members may participate in a meeting of the Board by means of conference telephone or similar communications equipment. In order to be present for purposes of a quorum, the Board Member must be able to communicate with those physically at the meeting space and hear all comments made by those physically present at the public meeting. Any Board Member so participating by conference telephone or similar communications equipment shall be considered present at such meeting.

3.11. Parliamentary Authority. The rules contained in the current edition of Robert's Rules of Order Newly Revised, as may be modified from time to time by the Board, shall govern the Authority in all cases to which they are applicable and in which they are not inconsistent with these By-Laws and any special rules of order the Authority may adopt. In the event of conflict, the following hierarchy of authority shall apply: (1) applicable law (2) the Authority's Articles of Incorporation, as amended, (3) these By-Laws, (4) Robert's Rules of Order Newly Revised, (5) standing rules adopted by the Authority, and (6) custom. The Authority Solicitor shall act as parliamentarian.

3.12. Public Meetings. Except for meetings (or portions of meetings) which lawfully may be closed to the public, all meetings of the Board (and of any committee of the Board attended by a quorum of the Board) shall be open to the public at a location suited to the nature of the business to be discussed and interest of the public, as determined by the Board. The right of the public, if any, to participate in public meetings or to comment upon matters being conducted by the Board shall be subject to such procedures and regulations as adopted by the Board, including the Board policy regarding public comments.

3.13. Minutes. The Board and each committee shall maintain minutes of all proceedings, such minutes to include at least the matters required by law to be included in such minutes.

3.14. Director Emeritus. The Board may appoint as Director Emeritus any person who has served as a member of the Board. The term of appointment shall be a period of one (1) year commencing on the date of appointment. A Director Emeritus (a) shall not be considered in determining whether a quorum is present, (b) shall have no right to vote, (c) shall not be considered to be a director, officer or employee of the Authority for purposes of Section 3.8 of these By-Laws or for purposes of Section 10.D. of the Act, and (d) shall receive no compensation. The Board may reappoint the Director Emeritus for additional terms, not to exceed one (1) year.

3.15. Ex Officio Members. The Board may appoint ex-officio members of the Board as is deemed necessary by the Board. Ex-Officio Board members shall have no voting rights, receive no compensation, and shall not be counted to constitute a quorum. Ex-Officio members shall be appointed for one (1) year terms. The Board may re-appoint Ex-Officio members on a yearly basis.

3.16. Decorum. Unless specifically directed by the Board or Chair, Board members shall refrain from any and all interactions with Authority staff, except the Chief Executive Officer and always with the acknowledgement of the Chair and Vice Chair. The Chief Executive Officer's leadership and day-to-day guidance must be respected.

3.17. Conflicts of Interest. Board Members, Ex-Officio Members and Agents of the Authority shall adhere to the Authority Conflict of Interest policy and the Pennsylvania State Ethics Act, as adopted by the Board and required by the Commonwealth of Pennsylvania

3.18. Code of Ethics. Board members, Ex-Officio Members and Agents of the Authority shall adhere to the Authority Code of Ethics policy and the Pennsylvania State Ethics Act, as adopted by the Board and required by the Commonwealth of Pennsylvania.

#### **ARTICLE IV**

4.1 Committees. The Board organization shall include such other committees as the Board or the Chair may from time to time designate. Each committee shall consider and make recommendations with respect to those matters which are properly brought before the committee and, in addition, each committee may exercise the powers, duties and responsibilities delegated to it by the Board. The Chair shall designate the members of the Board who shall serve on all other committees.

4.2 Audit Committee. The Board shall establish an Audit Committee comprising three (3) members to establish a framework for and monitor financial accountability, and to review and supervise the financial reporting process and internal control procedures of the Authority.

4.3. Conduct of Business. Each committee may determine the procedural rules for meeting and conducting its business. Each committee shall make provision for notice to all Board members of all committee meetings.

#### **ARTICLE V**

5.1. Officers. The officers of the Authority shall be elected by the Board and shall consist of a Chair, Vice-Chair, Secretary, and Treasurer/Assistant Secretary. The Chair, Vice-Chair, Secretary and Treasurer shall be chosen from among the members of the Board. The other officers of the Board may be, but need not be, members of the Board. All officers and agents shall have the authority and shall perform such duties as set forth in these By-Laws and/or as shall from time to time shall be prescribed by the Board.

5.2. Term of Office. Each Board officer shall be elected for a term of one (1) year which shall commence on the first Monday in January and shall continue until the day prior to the first Monday in January of the following year and until the successor in office shall be elected. Any officer may be removed for cause in accordance with law.

5.3. Compensation. The salaries and compensation (if any) of the officers and agents of the Authority shall be fixed by the Board.

5.4. Chair. The Chair shall preside at all meetings of the Board. The Chair shall see that all orders and resolutions of the Board are carried into effect, subject, however, to the right of the Board to delegate any specific powers except as prohibited by the Act or by law. If the Authority maintains a non-qualified deferred compensation plan for management employees, then the Chair may determine the contributions to such plan so long as the contributions are within the budget of the Authority approved by the Board. Except as otherwise authorized by resolution of the Board of the Authority, the Chairman shall sign all contracts, deeds and other instruments made by the Authority.

5.5. Vice-Chair. The Vice-Chair shall act in the absence of the Chair; and in the absence or incapacity of the Chair or the refusal of the Chair to act. The Vice-Chair shall exercise all duties and powers of the Chair.

5.6. Secretary. The Secretary shall oversee the recording all the votes of the members of the Board and shall oversee the maintenance of the minutes of all meetings and transactions of the Authority or the Board; and the Secretary shall perform, or cause to be performed, like duties for all committees of the Board when required to do so. The Secretary shall give, or cause to be given, notice of all meetings of the Board in accordance with law, and shall perform such other duties as may be prescribed by the Board. The Secretary shall oversee the keeping in safe custody the seal of the Authority.

5.7. Treasurer. The Treasurer shall oversee the custody of the Authority's funds and securities and shall oversee the keeping of full and accurate accounts of all receipts and disbursements. The Treasurer shall oversee the keeping of the moneys of the Authority in a separate account to the credit of the Authority. He or she shall oversee the disbursement of the funds of the Authority as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the Board, or cause to be rendered to the Board, at the regular meetings of the Board or whenever it may require it, an account of all transactions and of the financial condition of the Authority. The Treasurer shall also serve as the Assistant Secretary. The Assistant Secretary shall act in the absence of the Secretary; and in the absence of the Secretary, the Assistant Secretary shall exercise all duties and powers of the Secretary.

5.8. Vacancies. If any Board office (e.g. President, Vice President, Secretary, and Treasurer) becomes vacant for any reason, the Board may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred.

5.9. Additional Duties. The officers of the Authority shall perform such other duties and functions as may from time to time be required by the Board of the Authority or the Bylaws or rules and regulations of the Authority.

## ARTICLE VI

6.1. Consultants and Employees. The Board may appoint such consultants as they may deem necessary from time to time to carry out the business of the Authority and the Board shall determine the compensation of such consultants. The Board shall also appoint such employees as may from time to time be necessary to carry out the business of the Authority and shall determine the compensation of said employees. The Board shall appoint a Chief Executive Officer. The Board shall approve at least annually the number of employees



and the range of compensation for each classification of employee and shall, from time to time, designate the duties of all employees or shall delegate this designation of duties to the Chief Executive Officer. The Board may also choose such other officers and agents as it shall deem necessary

6.2. Chief Executive Officer. The Chief Executive Officer shall exercise the powers and responsibilities as are attendant of Chief Executive Officer and/or President of a corporation and shall carry forth all policies, transactions and activities approved by the Board of the Authority. The Chief Executive Officer's authority shall include, but not be limited to, the hiring and firing of subordinate employees for the purpose of carrying out the business of the Authority. The Chief Executive Officer may attend all meetings of the Board (and of committees of the Board) excepting only those meetings which are lawfully closed to the public and from which the Chief Executive Officer has been excused. The Chief Executive Officer shall have the right to speak, but not to vote, on all matters considered at any meeting which he or she attends.

6.3. Chief Operating Officer. The Chief Operating Officer of the Authority shall exercise the powers and responsibilities assigned from time to time by the Board or Chief Executive Officer of the Authority and may execute on behalf of the Authority such Authority documents and contracts as authorized by the Board or Chief Executive Officer of the Authority. In the event of the death or disability of the Chief Executive Officer, the Chief Operating Officer shall exercise the powers of the Chief Executive Officer until the Board appoints an interim or permanent Chief Executive Officer.

6.4. Chief Financial Officer. The Chief Financial Officer of the Authority shall exercise the powers and responsibilities assigned from time to time by the Board or Chief Executive Officer of the Authority and may execute on behalf of the Authority such

Authority documents and contracts as authorized by the Board or Chief Executive Officer of the Authority.

## **ARTICLE VII**

7.1. Budget. The Board shall annually on or before the first day in November establish a budget for the ensuing fiscal or calendar year, as the Board may determine.

7.2. Fees. The Board may fix, alter, charge, and collect reasonable rates and other charges for the use of the facilities of, or for the services rendered by the Authority or projects thereof, for the purpose of maintaining adequate financial reserves, for the purpose of providing for the payment of the expenses of the Authority, the construction, improvement, repair, maintenance, and operation of its facilities and properties, the payment of the principal of and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations, as the Board may from time to time by resolution determine. The Board shall annually on or before the first day in November establish the waste tipping fee schedule for the ensuing fiscal or calendar year, as the Board may determine.

## **ARTICLE VIII**

8.1. Records; Finances. There shall be kept at the office of the Authority an original or duplicate record of the proceedings of the Board and of each committee and the original or a copy of the Authority's Articles of Incorporation and By-Laws, including all amendments or alterations thereto to date. A copy of the agendas, minutes and financial statements shall be retained in accordance with the Board's document retention and destruction policy

8.2. Fiscal Year. The fiscal year of the Authority shall begin on January 1 of each year.

8.3. Moneys of the Authority. All moneys of the Authority, from whatever source derived, shall be paid to the Authority and deposited in one or more accounts, and each of such accounts to the extent the same is not insured shall be secured in accordance with the Act and other applicable law. The moneys in said accounts shall be paid out on the authorization of such person or persons as the Board may authorize. On or before July 1 of each year, the Authority shall file an annual report of its fiscal affairs covering the preceding fiscal year with the Department of Economic Development and with the County on forms prepared and distributed by the Department of Community Affairs. The Authority shall have its books, accounts and records audited annually by a certified public accountant, and a copy of the audit report shall be filed in the same manner and within the same time period as the aforesaid annual report. A concise financial statement shall be published annually as required by law. If the Authority fails to make an audit as required by these By-Laws, then the controller, auditors or accountant designated by the County shall have the authority and power from time to time to examine at the expense of the Authority the accounts and books of the Authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its finances, operation, and affairs. The Attorney General of the Commonwealth of Pennsylvania shall have the right at any reasonable time to examine the books, accounts, and records of the Authority.

## **ARTICLE IX**

### **9.1. Legal Representation.**

(a) The Authority upon written request shall provide legal representation to any person who was or is a director, officer, employee or agent of the Authority when an action is threatened or brought against such person and it is alleged that the acts or omissions which gave rise to the claim were within the scope of the office or duties of such person unless or

until there is a judicial determination that such acts or omissions were not within the scope of the office or duties of such person.

(b) The Authority upon written request may, but is not obligated to, provide legal representation to any person who was or is a director, officer, employee or agent of the Authority when an action is threatened or brought against such person and it is not alleged that the acts or omissions which gave rise to the claim were within the scope of the office or duties of such person.

(c) If pursuant to Section 9.1(b), the Authority does not provide legal representation, the Authority shall reimburse any present or former director, officer, employee or agent of the Authority for reasonable expenses of such person's legal defense if there is a judicial determination that the acts or omissions were, or that such person in good faith reasonably believed that such acts or omissions were, within the scope of such person's office or duties; provided, however, the Authority need not reimburse such person when there is a judicial determination that such acts or omissions constituted a crime, actual fraud, actual malice or willful misconduct.

(d) In any instance where the Authority provides legal representation to a present or former director, officer, employee or agent of the Authority, the Authority shall assume exclusive control of the defense. If legal counsel provided by the Authority determines that the interests of the Authority and the present or former director, officer, employee, or agent of the Authority are conflicting, the Authority shall:

(i) obtain the written consent of such person for such representation; or

(ii) supply independent representation.

## 9.2. Indemnity.

(a) The Authority shall indemnify any person who was or is a director, officer, employee or agent of the Authority for the payment of any judgment on a suit where it is

judicially determined that such person's acts or omissions caused the injury and were, or such person in good faith reasonably believed such acts or omissions were, within the scope of his or her office or duties; provided, however, if it is judicially determined that such acts or omissions constituted a crime, actual fraud, actual malice or willful misconduct, the Authority may withhold indemnification pursuant to Section 9.2(b).

(b) The Authority shall indemnify any person who was or is a director, officer, employee, or agent of the Authority against all reasonable costs and expenses (including without limitation judgments, penalties, fines, amounts paid in settlement, etc.) incurred in any actual or threatened investigation or proceeding (whether civil, criminal, administrative, or otherwise) if such person in acting as a director, officer, employee, or agent of the Authority

(i) acted in good faith, and

(ii) in a manner such person believed to be in the best interest of the Authority,

and

(iii) with respect to criminal matters, without knowledge that such actions were unlawful.

As to subparagraphs (i) and (ii) above, it shall be presumed that a person acted in good faith and in a manner such person believed to be in the best interest of the Authority unless and until

(1) it shall be finally adjudged that such person acted in a manner which such person knew not to be in good faith or knew not to be in the best interests of the Authority, or

(2) the Authority:

- (a) shall determine that such person acted in a manner which such person knew not to be in good faith or knew not to be in the best interests of the Authority, and
- (b) shall have received the opinion of its independent counsel that indemnification may be improper under the circumstances.

As to subparagraph (iii) above, a conviction or judgment (whether after trial or based on a plea of guilty or **nolo contendere** or otherwise) shall not be deemed an adjudication adverse to the person to be indemnified unless it shall also be adjudged in such conviction or judgment that such person knew such actions to be unlawful.

(c) It is the intent and obligation of the Authority to indemnify each former and present director, officer, employee, or agent in accordance with this indemnity provision and to the maximum extent permitted by law. If any portion of this Article IX is declared to be illegal or unenforceable, then the remaining portions of this Article IX shall be interpreted so as to provide the maximum indemnity permitted by law.

(d) Any person entitled to indemnity pursuant to this Section 9.2. shall as a precondition to such indemnity inform and consult with the Authority prior to incurring any cost or expense for which indemnity is requested. Payment of expenses to be indemnified shall be made as and when incurred by the person to be indemnified except as otherwise directed by the Authority.

9.3. Additional Rights. The obligations of the Authority as set forth in this Article VII shall:

(a) be in addition to and supplemental to any rights of indemnity pursuant to any insurance contracts, and

(b) be in addition to and supplemental to any right of indemnity pursuant to the “Political Subdivisions Tort Claims Act” or any other right to indemnity, and

(c) not constitute a waiver of any immunity which might be available to the person entitled to indemnity.

9.4. Obligation to Cooperate. The obligations of the Authority under this Article IX are conditioned upon the cooperation with the Authority of the person benefited by the provisions of this Article IX; and in the event such person shall fail or refuse to cooperate with the Authority as reasonably requested by the Authority, then the Authority shall have no obligations under this Article IX and the Authority may recover all costs and expenses expended on behalf of such person.

## ARTICLE X

### 10.1. Disposition of Property of Authority upon Termination of Authority.

Upon termination or dissolution of the Authority, and satisfaction of all liabilities of the Authority any property or assets of the Authority shall be conveyed and transferred to the County.

## ARTICLE XI

11.1. Amendment of Articles of Incorporation. The Articles of Incorporation of the Authority may be amended upon proposal and approval thereof by a majority of the Board and by County Council in accordance with the Act.

11.2. Amendment of By-Laws. These By-Laws may be amended by the Board upon the affirmative vote of two-thirds (2/3) of all members of the Board; provided, however, notice of every proposed amendment shall be given to each Board member not less than ten (10) days prior to action thereon.

These Amended and Restated Bylaws of the Delaware County Solid Waste Authority were adopted by the Board of Directors of the Authority on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Robert Layden, Secretary, Board of Directors