

# CLINTON COUNTY BOARD OF COMMISSIONERS

**Chairperson**  
John Arehart  
**Vice-Chairperson**  
Larry Martin

**Members**  
David Pohl  
Mary L. Rademacher  
Robert Showers  
Virginia Zeeb  
Claude A. Vail

**COURTHOUSE**  
**100 E. STATE STREET**  
**ST. JOHNS, MICHIGAN 48879-1571**  
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**Administrator**  
Ryan L. Wood  
**Clerk of the Board**  
Diane Zuker

## STATE OF MICHIGAN 2005-21 RESOLUTION TO AUTHORIZE THE CLINTON COUNTY RECYCLING PROGRAM

At a regular meeting of the Board of Commissioners of the County of Clinton, Michigan, held at the County Building in St. Johns, Michigan on the 30<sup>th</sup> day of August 2005, at 9:00 o'clock AM local time.

PRESENT: Commissioners: David Pohl, Larry E. Martin, John W. Arehart, Robert E. Showers, Virginia L. Zeeb and Claude A. Vail

ABSENT: Commissioners Mary L. Rademacher

It was moved by Commissioner Martin and supported by Commissioner Vail that the following resolution be adopted.

**WHEREAS**, The State of Michigan, in 1987, adopted a Solid Waste Management Strategy (“STRATEGY”) incorporating a diversion target for recycling at 25%, for waste reduction at 5 to 10% and for composting at 6%; and

**WHEREAS**, the Clinton County Board of Commissioners (“BOARD”) on behalf of Clinton County (“COUNTY”), has adopted the Clinton County Solid Waste Management Plan Update, (“Plan”) pursuant to state law, incorporating similar recycling goals; and

**WHEREAS**, a majority of local units (“LOCAL UNITS”) of government within COUNTY have approved the PLAN, pursuant to state law, incorporating similar recycling goals (collectively the recycling goals of the STRATEGY, PLAN and LOCAL UNITS are referred to as the “RECYCLING GOALS”); and

**WHEREAS**, in reliance on the Board’s adoption and the Local Units’ approval of the Plan, the Michigan Department of Environmental Quality has approved the PLAN and the RECYCLING GOALS; and

**WHEREAS**, the attainment of these RECYCLING GOALS requires a substantial governmental contribution for purposes of planning, administration, operation, education and the funding of contractual services; and

**WHEREAS**, all LOCAL UNITS and households in the COUNTY bear a share of the responsibility for the residential waste generated in the COUNTY each day; and

**WHEREAS**, the State of Michigan has enacted Act No. 138 of the Public Acts of 1989 ("ACT 138"), which permits a county, by resolution of its board of commissioners in cooperation with local units of government, to collect a surcharge not to exceed \$25 per household per year, on households within the COUNTY ("RECYCLING SURCHARGE"); and

**WHEREAS**, this money can be used only for "waste reduction programs and for the collection of consumer source separated materials for recycling and composting including, but not limited to, recyclable materials, as defined by Act No. 641 of the Public Acts of 1978, household hazardous waste, tires, batteries, and yard clippings";

**WHEREAS**, BOARD finds that the RECYCLING SURCHARGE or the alternative general funding by LOCAL UNITS is necessary to meet the RECYCLING GOALS within the COUNTY;

**WHEREAS**, ACT 138 requires the COUNTY to defer the collection of the RECYCLING SURCHARGE in a LOCAL UNIT until the COUNTY has entered into interlocal agreements relating to the collection and specific uses of the surcharge with that LOCAL UNIT; and

**WHEREAS**, the COUNTY has established a solid waste and recycling advisory board called the "Solid Waste Council," which along with a representative of partnering local units named in the interlocal agreements, will assist the BOARD in overseeing the disbursement of all RECYCLING SURCHARGE; and

**WHEREAS**, the BOARD finds that the "Interlocal Agreement for Recycling within Clinton County" ("AGREEMENT") provides the necessary funding for the County and Local Units to reach the RECYCLING GOALS and each Local Unit the option of using the RECYCLING SURCHARGE and/or general funding to best achieve those goals;

**NOW, THEREFORE, BE IT RESOLVED:** that the provisions of ACT 138 are incorporated by reference and any inconsistency between this RESOLUTION and ACT 138 shall be resolved in favor of ACT 138 and the inconsistent provision in the RESOLUTION be struck;

**BE IT FURTHER RESOLVED:** that the BOARD approves the collection of a RECYCLING SURCHARGE of up to \$25.00 per year from each household within the COUNTY for the purposes of waste reduction, as authorized and provide in defined in Act 138;

**BE IT FURTHER RESOLVED:** that the BOARD and LOCAL UNIT shall annually determine the amount the RECYCLING SURCHARGE necessary to be assessed within each LOCAL UNIT so that the County can reach the RECYCLING GOALS;

**BE IT FURTHER RESOLVED:** that the Board approves the AGREEMENT with all LOCAL UNITS; directs the BOARD'S Chairperson and the County Clerk to execute the AGREEMENT with each LOCAL UNIT that approves it; and directs the County's Waste Management Coordinator to present an AGREEMENT and a certified copy of this Resolution to all LOCAL UNITS; and

**BE IT FURTHER RESOLVED:** that each LOCAL UNIT shall annually impose the RECYCLING SURCHARGE on each household as defined and provided in ACT 138 as determined by the BOARD, provided that the LOCAL UNIT may by general fund appropriation, defray part or all of the RECYCLING SURCHARGE revenue that would otherwise be collected with that LOCAL UNIT;

**BE IT FURTHER RESOLVED:** that if a LOCAL UNIT chooses not to sign an AGREEMENT or if its electorate by referendum terminates or precludes the LOCAL UNIT from entering into the AGREEMENT, the LOCAL UNIT shall demonstrate compliance with the PLAN and the RECYCLING GOALS within the LOCAL UNIT through other means; and

**BE IT FURTHER RESOLVED:** that a "household" ("HOUSEHOLD") shall consist of an occupied dwelling having normal household facilities such as a bathroom and individual cooking facilities. A HOUSEHOLD does not include penal institutions, motels, hotels or other similarly used dwellings. A dwelling is to be presumed to be occupied unless the owner of the dwelling demonstrates to the Solid Waste Council that it was unoccupied; and

**BE IT FURTHER RESOLVED:** that a HOUSEHOLD in a LOCAL UNIT using the ACT 138 RECYCLING SURCHARGE, shall have the option, following procedures to be established by the COUNTY, to petition the BOARD, through its Solid Waste Council to be exempted from the ACT 138 household fee, except that such exemption shall not be granted unless the petitioning household can demonstrate that it has arranged for these same waste reduction services to be provided through other means with a detailed description attached.

**BE IT FURTHER RESOLVED:** that any annual assessment of the RECYCLING SURCHARGE below the \$25.00 maximum authorized in the AGREEMENT and by the BOARD'S Resolution authorizing the RECYCLING SURCHARGE and the AGREEMENT shall not constitute an increase in the surcharge as referenced in section 8a (2) of ACT 138.

**BE IT FURTHER RESOLVED:** that the COUNTY Treasurer is hereby authorized and directed to collect any delinquent RECYCLING SURCHARGE through the delinquent tax collection program to the extent authorized and permitted by law; and

**BE IT FURTHER RESOLVED:** that this RESOLUTION shall augment, supersede, modify or replace any inconsistent prior resolution or motion, and shall remain in effect until modified, superseded or replaced by a subsequent resolution of the County Board of Commissioners.

YEAS: Commissioners Pohl, Showers, Martin, Vail, Zeeb and Arehart

NAYS: None

ABSTENTIONS: Commissioner Rademacher

STATE OF MICHIGAN  
COUNTY OF CLINTON

I, DIANE ZUKER, Clerk of the County of Clinton do hereby certify that the foregoing resolution was duly adopted by the Clinton County Board of Commissioners at the regular meeting held August 30, 2005 and is on file in the records of this office.

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Diane Zuker, Clinton County Clerk