

TOWN OF MAYFIELD LOCAL LAW NO. 5 OF THE YEAR 1998

A local law WASTE MANAGEMENT FACILITIES LAW

Be it enacted by the Town Board of the Town of Mayfield as follows:

| | |
|---------------|------------------------------------|
| Section I. | TITLE |
| Section II. | FINDINGS |
| Section III. | PURPOSE |
| Section IV. | APPLICABILITY |
| Section V. | DEFINITIONS |
| Section VI. | EXEMPTIONS |
| Section VII. | COORDINATION WITH STATE LAW |
| Section VIII. | PROHIBITIONS |
| Section IX. | PENALTIES FOR OFFENSE; ENFORCEMENT |
| Section X. | REPEALER; EFFECT ON OTHER LAWS |
| Section XI. | SEVERABILITY |
| Section XII. | EFFECTIVE DATE |

Be it enacted by the Town Board of the Town of Mayfield as follows:

Section I. TITLE

This local law shall be known as and may be cited as the “Waste Management Facilities Law of the Town of Mayfield”.

Section II. FINDINGS

- A. The Town Board finds that environmental science is presently inadequate to satisfactorily evaluate and control pollution from solid and liquid waste disposal facilities such as landfills; ashfills; resource recovery or incineration facilities. Among other factors, the Board finds as follows:
1. The inability of geological science to precisely ascertain the existence and flow of groundwater and to map subterranean geology makes it impossible to determine the extent to which solid and liquid waste disposal may, or may not be, contaminating water supplies.
 2. Waste facilities such as landfills and incineration facilities have been identified by the EPA as significant sources of air pollution. Landfills are significant sources of methane. Increases in air pollutants threaten the health and safety of the community. Increased air pollution will have an extremely negative impact on the rural nature of the community and the tourism/second home segments of the local economy.
 3. The Town includes significant water resources, which could be damaged by waste disposal operations. The DEC has identified waste disposal operations as a significant source of water pollution.

4. The location of solid waste facilities has been proven to diminish neighboring property values.
5. Moreover, the accumulated extent of hazardous waste disposal in solid and liquid waste disposal facilities cannot be measured or accurately determined because of state and federal regulations permitting disposal of residential or small user quantities of hazardous wastes.
6. The Town's need for solid and liquid waste disposal are being met. Furthermore, the regional need for waste disposal is being met by the County landfill and private facilities, as documented in the Fulton County Solid Waste Management Plan. There is no local or regional need for new facilities.
7. Future correction of pollution from solid or liquid waste management facilities including sanitary landfills and incineration facilities may be very expensive or impossible to achieve.
8. The Town's existing community character will be adversely and unalterably impacted by the location and operation of any solid or liquid waste management facilities within the town. Especially of concern is the necessity of heavy truck traffic needed for construction and operation of solid waste facilities. The roads in the Town of Mayfield may not be capable of supporting this traffic. The Town is partly located in the Adirondack Park. Its economy has significant agricultural and tourism sectors, which could be negatively impacted by the location of solid waste facilities in the Town.
9. Substantial scientific opinion questions the environmental and health effects of both resource recovery facilities that incinerate or burn solid waste and of the handling and disposal of ash residue from such facilities, and the containment methods for liquid waste.
10. Solid and liquid waste regulation by the Department of Environmental Conservation under the New York Environmental Conservation Law (ECL) is inadequate to relieve the foregoing concerns.

Section III. PURPOSE

A. The Town intends by this Local Law to:

1. Regulate and restrict the operation of solid waste management facilities within the Town of Mayfield in order to promote a clean, wholesome and attractive environment for the community.
2. Reduce the risk of pollution from said waste disposal operations by restricting the scope and size of such activities.
3. Protect the residents of the Town from undesirable effects of solid waste disposal operation including:
 - (a) unaesthetic results, including odors, blowing litter, increased traffic, dust and noise, and

- (b) deterioration in property values associated with an adjacent or proximate disposal operation that may interfere with the orderly development of properties; and
 - (c) threats to public health or the environment by contamination of air, surface water or groundwaters.
- 4. To exercise the Town’s police powers under the Municipal Home Rule Law and Sections 130 and 136 of the Town Law for the physical and mental well-being and safety of its citizens and to restrict waste disposal operations within the Town that might otherwise be permitted under the ECL. Section 27-0711 of the ECL specifically recognizes and authorizes the right and authority of a Town to legislate stricter controls on solid waste management operations than state law requires.

Section IV. APPLICABILITY

This Local Law shall apply to all territory within the confines of the Town of Mayfield.

Section V. DEFINITIONS

- A. Unless defined below or the context otherwise requires, the terms and words used in the Local Law shall have the same meaning as those defined in Article 27 of the ECL and Title 6, Parts 360 and 364 and 617, of the New York Codes, Rules, and Regulations.
- B. As used in this Local Law, these terms and words used in this Local Law shall be defined as follows:

APPLICANT – the person or persons applying for a waiver under this Local Law. An “applicant” must be the owner of the solid waste management facility and the site with which it is located.

ASH OR ASH RESIDUE – all the solid residue and any entrained liquids resulting from the combustion of solid waste at a solid waste incinerator, including bottom ash, boiler ash, fly ash and the solid residue of any air pollution control device used at a solid waste incinerator.

ASHFILL – any landfill designed to accept ash, ash residue, bottom ash, combined ash, or fly ash.

COMMERCIAL WASTE – liquid or solid waste generated by stores, offices, warehouses and restaurants.

COMPOSTING – aerobic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material used for fertilizing and conditioning land.

COMPOSTING FACILITY – means a solid waste management facility used to promote aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

CONSTRUCTION AND DEMOLITION DEBRIS – uncontaminated, inert solid waste resulting from the construction, remodeling, repair and demolitions of structures, and from road building and land clearing. Such waste includes, but is not limited to, bricks, concrete, and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, asphaltic pavement, glass, plastics, that are not sealed in a manner that conceals other wastes, and metals that are incidental to any of the above.

CONTAINMENT POND OR POOL – any basin, tank, pond or pool for the disposal, storage, retention, procession treatment or other handling of liquid waste.

DEC – the New York State Department of Environmental Conservation.

DISPOSAL – the placement, distribution, storage, removal or transportation of solid wastes.

EPA – the United States Environmental Protection Agency.

FACILITY – any solid waste management facility.

HAZARDOUS WASTE – waste meeting the definition set forth in 6 NYCRR Part 371.

HOUSEHOLD WASTE – liquid or solid waste from residential sources.

INDUSTRIAL WASTE – any liquid, gaseous, solid or waste substance or combination thereof resulting from any process of industry, manufacturing, trade or business. It shall include, but not be limited to, pesticides, lime, acids, chemicals, petroleum products, tar, and dye-stuffs.

LANDFILL, OR SANITARY LANDFILL – any disposal area for solid wastes in or upon the ground.

MANURE – refuse of stables and barnyards consisting of livestock excrete with or without litter used for fertilizing land.

ON-SITE FACILITY – any facility serving only the applicant's waste products generated on the applicant's premises.

PERSON – any individual, partnership, firm, association, business, industry, enterprise, public or private corporation, political subdivision of the state, government agency, municipality, estate, trust or any other legal entity whatsoever.

RECYCLING – means the reuse of solid waste recovered from the solid waste stream into goods or materials suitable for reuse in original or changed form.

SEWAGE – the water carrying human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present.

SOLID OR LIQUID WASTE – all putrescible and non-putrescible materials or substances that are discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including, but not limited to liquids, garbage, refuse, industrial, commercial and household waste, sludges from air or water treatment facilities, rubbish, tires, ashes,

contained gaseous material, incinerator ash and residue and construction and demolition debris. In addition:

1. A material is “discarded” if it is abandoned by being:
 - (a) disposed of;
 - (b) burned or incinerated, including being burned as a fuel for the purpose of recovering usable energy; or
 - (c) accumulated, stored, or physically, chemically, or biologically treated (other than burned or incinerated) instead of being disposed of.
2. A material is “disposed of” if it is discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water.

SOLID WASTE MANAGEMENT FACILITY – any facility employed beyond the initial solid or liquid waste collection process and managing solid or liquid waste including, but not limited to: storage areas or facilities; transfer stations; composting facilities; rail-haul or barge-haul facilities; procession facilities; landfills; ashfills; disposal facilities; solid waste incinerators; resource recovery facilities; recycling facilities; and waste tire storage facilities, containment ponds or pools, sewage treatment plants and storage tanks or containers, or any other facility of any kind designated a solid waste management facility by the DEC.

SOLID WASTE INCINERATOR – an incinerator at which household waste and non-hazardous industrial/commercial waste are combusted for energy.

Section VI. EXEMPTIONS

- A. The following are not subject to this Local Law:
 1. Any disposal of manure in normal farming operations; but not including sewage sludge processing and spreading or the disposal of any manure not generated on-site.
 2. Any sewage facility but not including any sewage sludge spreading facility.
- B. None of the above exemptions shall be construed to permit any activity contrary to existing building codes or other laws or as exempting any other permit required by state or local law.

Section VII. COORDINATION WITH STATE LAW

- A. The provisions of this Local Law shall be interpreted in such a manner as being consistent with state law, except that the more stringent requirements of this Local Law shall apply.

Section VIII. PROHIBITIONS

- A. No solid waste management facility shall hereafter be constructed, operated, or expanded within the Town of Mayfield.

Section IX. PENALTIES FOR OFFENSES; ENFORCEMENT

- A. All violations of this Local Law or any of its regulations or provisions, shall be deemed Class A misdemeanors, punishable by a fine not exceeding five thousand (\$5000.00) dollars or imprisonment not exceeding one (1) year, or both. Each and every day that a violation of this Local Law is permitted to exist shall constitute a separate offense.
- B. Any violation of this Local Law or regulations or provisions thereof shall create a liability to the people of the Town for civil penalty not to exceed five thousand (\$5000.00) dollars, to be after a hearing or opportunity to be heard, upon due-notice and with the right to specification of the charges and representation by counsel at such hearing. Each and every day that a violation of this Local Law occurs or continues shall constitute a separate violation for purposes of civil liability. Each and every day that a violation of a condition of a permit issued under this Local Law occurs or continues shall constitute a separate violation for purposes of civil liability.
- C. Upon any violation of this Local Law, or of any condition of any permit issued under this Local Law, by any person, the Town shall be entitled to obtain an injunction against such persons prohibiting further violations and, in addition, ordering that any solid or liquid waste disposed or stored in violation hereof be removed from the Town, and ordering that any land on which solid or liquid waste is disposed of in violation of this Local Law be restored as nearly as possible to its former condition by the removal of any waste illegally disposed of and by such other restorative measures as are available, and further ordering that the operator remedy any effects of the violation of surrounding or adjacent properties or resources, including, without limitation, air, trees, crops, water bodies, wetlands and groundwaters, at the sole cost of the operator or owner.
- D. Any person who has been found by a judicial tribunal of the State of New York to have intentionally violated this Local Law shall, in addition to the provisions found in sections A and B, be liable to reimburse the Town and citizens of Mayfield for its costs and expenses associated with bringing a particular prosecution to enforce this Local Law, including, but not limited to, its reasonable attorney fees.

Section X. REPEALER; EFFECT ON OTHER LAWS

All other ordinances and local laws or parts thereof in conflict herewith are superseded by this Local Law; provided, however, that the provisions of this Law shall not be interpreted as obviating any requirements or restrictions wherever it is possible to conform to the provisions of both this law and any other law or ordinances.

Section XI. SEVERABILITY

If any part of the Local Law shall be judicially declared to be invalid, void, unconstitutional, or unenforceable, all unaffected provisions hereof shall survive such declaration, and this Local Law shall remain in full force and effect as if the invalidated portions had not been enacted.

Section XII. EFFECTIVE DATE

This Local Law shall become effective when it is filed with the Secretary of State pursuant to the Municipal Home Rule Law.