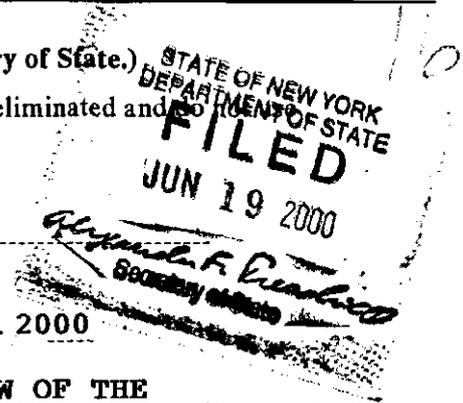


Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.



~~County~~
~~City~~ of **FARMERSVILLE**
Town
~~Village~~

Local Law No. 1 of the year 2000

"A local law AMENDING THE SOLID WASTE DISPOSAL LAW OF THE
(Insert Title)
TOWN OF FARMERSVILLE, LOCAL LAW NO. 1-1991."

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

~~County~~
~~City~~ of FARMERSVILLE as follows:
Town
~~Village~~

SEE ATTACHED PAGES "1A THROUGH 1M"

(If additional space is needed, attach pages the same size as this sheet, and number each.)

I. TITLE.

This local law shall be known as "AMENDMENT NO. 1 TO THE SOLID WASTE DISPOSAL LAW OF THE TOWN OF FARMERSVILLE". This local law shall amend Local Law #1 of 1991.

II. FINDINGS AND PURPOSE.

A. Findings of the Town Board.

1. The State of New York has delegated to local governments authority to determine whether to allow the construction and operation of solid waste management facilities within their borders and, if such facilities are allowed, to enact comprehensive standards to regulate such facilities.

2. In order to preserve the character of the Town and to protect the health, safety and welfare of the residents of the Town, the Town Board finds that the construction and operation of new solid waste management facilities for the permanent disposal of solid waste should be further regulated by amendment to its "Solid Waste Disposal Law of 1991", by benefiting from the many studies and analysis pro and con for the siting of such landfill that have taken place over the past nine (9) years.

3. This law also shall be interpreted consistent with the terms of Local Law No. 1 of 1994, which is not repealed.

B. Purposes of Local Law.

The Town Board intends by this Local Law:

1. To further protect the residents of the Town from the effects of solid waste disposal, including

a. unaesthetic results, including odors, blowing litter, increased traffic, dust and noise, and

b. deterioration or perceived deterioration in property values associated with 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, land surface waters, or groundwaters.

III. DEFINITIONS.

The following definitions shall apply to the corresponding words:

A. COMMERCIAL OR INDUSTRIAL HAZARDOUS WASTE, TREATMENT, STORAGE, OR DISPOSAL FACILITY - Any facility that solicits or accepts hazardous waste for the purpose of treating, storing, or disposing of hazardous wastes.

B. HAZARDOUS WASTE - Waste meeting the definition set forth in 6 NYCRR Part 371.

C. 6 NYCRR - Title 6 of the New York Codes, Rules and Regulations.

D. SOLID WASTE MANAGEMENT FACILITY - Any facility employed beyond the initial solid waste collection process and managing solid waste or industrial waste including, but not limited to: storage areas or facilities; transfer stations; rail-haul or barge-haul facilities; landfills; disposal facilities; solid waste incinerators; refuse-derived fuel processing facilities; pyrolysis facilities; C&D debris processing facilities; land application facilities; surface impoundments; used oil storage; composting facilities; reprocessing

and rerefining facilities; recyclables handling and recovery facilities; waste tire storage facilities; and regulated medical waste treatment facilities. The term includes all structures, appurtenances, and improvements on the land used for the management or disposal of solid or industrial waste.

E. SOLID WASTE - (This definition is different from that in 6 NYCRR) All putrescible and non-putrescible materials or substances that are discarded, including garbage, rubbish and refuse, industrial, commercial, household, and municipal waste.

In addition:

1. A material is "discarded" if it is abandoned by being:
 - a. disposed of;
 - b. burned or incinerated, including being burned as 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 or before 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 or disposal facility.

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

G. COMMERCIAL WASTE - solid waste generated by stores, offices, warehouses, and restaurants and non-manufacturing activities at industrial facilities.

H. HOUSEHOLD WASTE - solid waste including rubbish from permanent and temporary residential sources.

I. LANDFILL - any disposal facility for solid waste as herein defined excluding "land spreading" or "land application facility" as defined in 6 NYCRR Part 360.

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

K. 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, flue gas desulfurization and the solid residue of any air pollution control device used as a solid waste incinerator.

L. BOTTOM ASH - the ash residue remaining after combustion of solid waste in a solid waste incinerator that is discharged through and from the grates, combustor or stoker.

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

N. SLUDGE - any solid, semi-solid or liquid waste generated from a wastewater treatment plant, water supply treatment plant, or air pollution control facility but does not include the treated effluent from a wastewater treatment plant.

O. COMBINED ASH - the mixture of bottom ash and fly ash.

P. FLY ASH - the ash residue from the combustion of solid waste that is entrained in the gas stream of the solid waste incinerator, which includes, but is not limited to, particulates, boiler ash, cinders, soot, and solid waste from air pollution control equipment.

Q. SOLID WASTE INCINERATORS - an incinerator combusting non-hazardous solid waste or solid waste with fossil fuel with or without energy recovery.

R. 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.

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

T. WASTE TIRE STORAGE OR DISPOSAL FACILITY - means any facility containing discarded, processed, abandoned or disposed of motor vehicle tires.

U. DISPOSAL FACILITY - means a solid waste management facility or part of one in or on which solid waste is intentionally placed, including any land or water, and at which solid waste will remain after closure.

IV. EXEMPTIONS.

The following are not subject to this Local Law:

A. Any disposal of manure or crop residuals in normal farming operations;

B. Any operation or facility which receives or collects only non-putrescible, non-hazardous solid waste and beneficially uses or reuses or legitimately recycles or reclaims such waste. Such exempt facilities would include citizen recycling programs, municipal recycling operations, and bonafide salvage dealers.

V. OTHER PERMITS OR APPROVALS.

This Local Law shall not be construed as exempting any activity from zoning requirements, building codes or other laws or as exempting persons engaging in any such activities from obtaining any other permits required by state or local law.

Permits issued pursuant to this Local Law shall be issued for a term of one year from the date of issuance.

VI. PERMITTED ACTIVITY.

A. Permits of Solid Waste Management.

1. The only one solid waste management facility that may possibly exist within the Town shall be sited, designed, constructed, operated and closed in accordance with the requirements of the New York State Environmental Conservation Law and 6 NYCRR Part 360, as both are amended and the requirements of this Local Law and any permit issued hereunder.

2. There shall be added to Article VI of the Local Law No. 1 of 1991 the following as A-3-g:

"The Representative shall be empowered to conduct measurements, observations and sampling of noise, odors, air, stormwater, leachate, soil or other media as deemed prudent by the Town to monitor environmental, human health and safety factors of concern to the community. In general, measuring, sampling and testing performed under this section shall be arranged so as to have minimal

disruption to normal operations of the landfill. Monitoring performed under this section does not substitute for monitoring required by any other governmental entity."

"The owner/operator shall pay costs for measuring, sampling, sample preservation, packaging, transportation, testing and test reporting (including all QA/QC functions) performed by or on behalf of the representative. The costs of Facility Monitoring described in this paragraph shall not exceed \$75,000.00 per year (2000 dollars). This not-to-exceed value shall be adjusted annually based on the Consumer Price Index. The permittee shall be notified prior to any measuring or sampling conducted by the Town for which the Town expects compensation under this section."

3. Local Law No. 1 of 1991 is further amended by adding to Article VI Section B-14-a; that no more than 3,000 tons per day may be brought to the site. Article VI Section B after sub-section 17 there shall be added the following:

"18. The landfill grading plan shall be accompanied by earthwork calculations demonstrating the approximate balance (within 20%) of cut and fill, inclusive of those materials used for the construction of the roads, dams, channels, ponds, embankments and berms, exclusive of materials utilized in the base liner and final cover systems.

19. The turbidity of any water discharged from stormwater management or drainage facilities shall not exceed the turbidity of the receiving waters. No discharges at a temperature greater than 70 degrees Fahrenheit will be permitted at any time, and from June 1 through September 30, no discharge will be permitted that raises the ambient temperature of the stream more than 2 degrees Fahrenheit.

In case of urgent necessity in the interest of public safety, and then only with a permit from the Town Supervisor, which permit may be renewed for a period of three (3) days or less while the emergency continues, emergency response activities may be initiated prior to obtaining a permit.

20. The following landfill noise generating activities are prohibited between the hours of 10:00 p.m. and 7:00 a.m. if they create a noise which is transmitted beyond a residential real property boundary which exceeds a Leg energy equivalent sound level of 47 decibels Db(A). These same landfill noise generating activities are prohibited between the hours of 7:00 a.m. and 10:00 p.m. if they create a noise which is transmitted beyond a residential real property boundary which exceeds a Leg energy equivalent sound level of 57 decibels Db(A) except in those activities involved in construction of the landfill. Landfill noise generating activities are:

a) the outdoor use and operation of any mechanically or electrically powered tool;

b) excavation, demolition, alteration or repair of any structure, or civil work (such as road, dam, channel, pond or embankment or berm).

c) operation, maintenance or repair of heavy trucks and construction equipment (such as that used for highway construction or landfill construction and operation), except when legally on a public right-of-way.

The listed activities are permitted in the case of urgent necessity in the interest of public safety, and then only with a permit from the Town Supervisor, which permit may be renewed for a period of three (3) days or less while the emergency continues. Emergency response activities may be initiated prior to obtaining a permit.

21. Any solid waste management facility shall be open for receiving or sending out materials only between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday and between the hours of 8:00 a.m. and 12:00 p.m. on Saturdays.

Site preparation for receiving waste and daily cover placement shall occur only between the hours of 7:00 a.m. and 6:00 p.m.

Outdoor construction, maintenance or repair activities shall occur only between the hours of 7:00 a.m. and 6:00 p.m., except in the case of urgent necessity in the interest of public

safety, and then only with a permit from the Town Supervisor, which permit may be renewed for a period of three (3) days or less while the emergency continues. Emergency response activities may be initiated prior to obtaining a permit. Permit cost is \$50.00 per occurrence and is not extendable.

22. Prior to construction, any specified material to be placed directly on a geomembrane must be tested at prototype scale. The test shall demonstrate that the material protects the geomembrane from damage, puncture or excessive loss of strength, under the design static loads and during construction and operation. The prototype scale test shall replicate unloading, placement, spreading and compaction activities, as well as equipment turning movements.

The test shall utilize the drainage stone, cushion layer, geomembrane and/or other liner materials approved for use in construction (i.e., those materials having been through the shop drawing or submittal process successfully).

The first layer of waste placed above the leachate collection system must be a select waste and material acceptable to the Town.

All such tests shall be performed and reviewed by a licensed professional engineer who shall certify the results, which must be acceptable to the Town Engineer before the permittee may construct.

23. Vehicular access to and from the landfill shall be configured to prevent queuing of vehicles on any public right-of-way within the Town. Commercial wastehauling vehicles may not park or stand in the public right-of-way for more than fifteen (15) minutes, unless the vehicle is disabled or is engaged in construction, maintenance or repair of the roadway, utilities, drainage or landscaping within the right-of-way.

24. Surface water drainage patterns shall be preserved. The final grading plan shall be configured such that the number of acres of land that contribute runoff to any perennial stream and to any wetland one acre or more in size shall be the same as that prior to site development.

For purposes of this section, a perennial stream is defined as a stream depicted with a solid blue line on the most recent 1:24000 scale US Geological Survey map and a wetland shall be defined according to New York State and Federal wetlands regulations and procedures.

25. To facilitate maintenance, reduce erosion, and maintain aesthetic quality, no earth slope constructed in cut or fill shall exceed a slope of 3 horizontal to 1 vertical. Constructed slopes that deviate less than 10 feet vertically from original grade are exempt from this regulation."

VII. ENFORCEMENT.

A. Upon violation of this Local Law by any person, the Town Board shall be entitled to obtain an injunction against such persons prohibiting further violations and, in addition, ordering that any solid waste disposed of in violation hereof be removed from Town, and ordering that any land on which solid waste is disposed of in 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 on surrounding or adjacent properties or resources, including, without limitation, air, crops, water bodies, wetlands and groundwaters.

B. For any violation of this Local Law, the violator shall be subject to a civil penalty of up to \$25,000.00 for each violation. Each non-compliance shall be separate and distinct violation. The Town shall be entitled to recover such fines in an action at law in any court of competent jurisdiction.

C. Upon an action for injunctive relief or for a civil penalty hereunder, the Town shall be entitled to a further award and judgment for its costs, expenses, disbursements, and reasonable attorneys'

fees in connection therewith.

VIII. APPLICATIONS AND HEARINGS; JUDICIAL REVIEW.

A. Application Procedures.

1. Applications shall be submitted to the Town Clerk for determination of completeness and review.

2. The Town Engineer shall make a determination of completeness or incompleteness on or before thirty (30) days after receipt of the application and shall notify the applicant by mail of the determination.

3. If the application is determined to be incomplete, the notice shall include a brief statement indicating all identified areas of incompleteness.

4. If the application is determined to be complete, the notice of complete application must be published by the applicant in the official newspaper for the publication of legal notice.

5. The notice of completeness must include the following information:

- a. The applicant's name;
- b. A description of the proposed project and its location;
- c. The status of environmental reviews conducted under SEQR;
- d. The deadline (not less than thirty (30) days after the date of publication) for submission of written comments on the application including any request for a public hearing.
- e. The deadline (not less than thirty (30) days after

the date of publication or the date provided under 6 NYCRR Part 617, whichever is longer) for submission of written comments on the environmental review of the project under SEQR.

6. After a permit application is complete the Town Board shall evaluate the application and any comments received on it to determine whether a public hearing will be held. If a public hearing will be held, the applicant shall be notified by mail. This shall be done within thirty (30) days after the deadline for submission of written comments under "5.e" of this section.

7. If a public hearing on an application will be held, it shall commence on or before thirty (30) days after the date notice is mailed to the applicant.

8. If no public hearing will be held, the Town Board shall make a final determination on the application within thirty (30) days after either the deadline for submission of written comments under "5.e" of this section or the completion of all requirements under SEQR, whichever is longer.

B. Hearing and Decision.

1. The Town Board shall fix the time and place for hearing and give public notice thereof by the publication in the official newspaper of notice of such hearing at least five (5) days prior to the date thereof and shall make a final determination on the application within thirty (30) days after such hearing or the completion of all requirements under SEQR, whichever is longer.

2. At the public hearing the Town Board will hear and receive the unsworn statements of the applicant and interested

persons relating to the application. The Town Board may require that lengthy statements be submitted in writing and summarized for oral presentation. The Town Board has discretion to establish procedures to promote the conduct of a fair and efficient hearing and may cancel or terminate a hearing at any time.

C. Judicial Review - All decisions of the Town Board are subject to court review in accordance with applicable laws of the State of New York.

IX. MISCELLANEOUS.

A. This Local Law shall be deemed to supersede and repeal any other ordinances and local laws to the extent inconsistent herewith.

B. If any part of this 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 force and effect as if the invalidated portions had not been enacted.

C. Nothing herein shall be deemed to be a waiver of or restriction upon any rights and powers available to the Town of Farmersville to further regulate the subject matter of this Local Law.

X. EFFECTIVE DATE.

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

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2000 of the ~~(County)(City)~~(Town)(~~Village~~) of Farmersville was duly passed by the Town Board on June 14, 2000, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.

Susan E. Halmer

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: June 14, 2000

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Cattaraugus

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Donald J. Swanz

Donald J. Swanz
Town Attorney

Signature

Title

COUNTY
of Farmersville
Town
~~Village~~

Date: June 14, 2000