

ACT NO. 147-2000 by Mr. Felton Mr. Fitzpatrick,
Mr. McCrea and Mr. Anastasia

LOCAL LAW NUMBER 3-2000
COUNTY OF CATTARAUGUS, NEW YORK

Pursuant to Section 226-b of the County Law and
Section 10 of the Municipal Home Rule Law.

A LOCAL LAW REGARDING THE CONSTRUCTION OF SOLID WASTE LANDFILLS
IN CATTARAUGUS COUNTY, NEW YORK

BE IT ENACTED by the County Legislature of the County of
Cattaraugus as follows:

SECTION 1. Legislative Intent. The County of Cattaraugus, in an effort to safeguard the environment in a manner consistent with the New York State Environmental Conservation Law ("ECL") and the rules and regulations promulgated thereunder in connection with the siting and operation of landfills, hereby enacts this Local Law. It is the intention of the County of Cattaraugus to reduce the possibility of groundwater contamination by improving landfill siting and design in a manner that is consistent with, but more protective of human health and natural resources than, the regulations promulgated by New York State, which are codified at 6 NYCRR Part 360-2.

SECTION 2. Findings. The Legislature of the County of Cattaraugus finds that:

a. In order to make a contribution to the development and implementation of environmentally and technically viable solid waste disposal programs, landfill design and siting regulations in addition to those promulgated by the State of New York as set forth at 6 NYCRR Part 360-2 are necessary.

b. The existence of a zone of separation between the base of a landfill liner and the groundwater table may protect groundwater from contamination, if the intervening soil has a low hydraulic conductivity. In the long run, this natural safeguard is a more reliable protection than are engineered barriers.

c. The existence of an 18-inch thick low permeability soil layer in the primary composite liner of a landfill is an important element in the protection of groundwater from contamination emanating from landfills.

d. In view of the seismicity of Cattaraugus County, the slopes of landfills, landfill liners and all interfaces within the liner system, are especially important factors in assessing and insuring the safety of landfills, and protecting the surrounding environment from contamination.

e. In addition to the low permeability and seepage velocity of the soil, the identification of any highly permeable zones or lenses in the soil and the bedrock is important in the determination of the suitability of a site for a landfill.

f. The freshwater wetlands of the County of Cattaraugus are invaluable for flood protection, wildlife habitat, open space and water resources. Any loss of freshwater wetlands deprives the people of the County of Cattaraugus of these benefits.

g. Construction and operation of a landfill are complex processes requiring considerable experience, skill and integrity, and landfills built or operated by persons or entities without such qualities are more likely to cause harm to public health or environment.

SECTION 3. Legislative Purposes. The purposes of this Local Law are:

a. to encourage the development and implementation of environmentally and technically viable solid waste disposal programs;

b. to protect the natural and human resources of the County of Cattaraugus in a manner that is consistent with, but more protective of those resources than, the regulations promulgated by New York State, as set forth at 6 NYCRR Part 360-2;

c. to protect and preserve the freshwater wetlands of the County of Cattaraugus.

SECTION 4. Definitions. As used in the context of this Local Law, the following definitions shall apply:

a. Freshwater Wetlands: Lands and waters of the state, regardless of size or formal designation, as defined in ECL Section 24-0107.1 and/or 33 Code of Federal Regulations ("CFR") Section 328.3(b) and 40 CFR Section 230.3(t).

b. Groundwater: Water below the land surface in the saturated zone of the soil or rock. This includes perched water separated from the main body of groundwater by an unsaturated zone.

c. Groundwater Table: The naturally occurring surface of groundwater at which it is subjected to atmospheric pressure. Groundwater table does not include the potentiometric head level in a confined aquifer.

d. Landfill: A disposal facility or part of one at which solid waste, or its residue after treatment, is intentionally placed in or on land, and at which solid waste will remain after closure and which is not a landspreading facility, a surface impoundment, or an injection well.

e. Liner System: A continuous layer of natural or man-made materials, beneath or on the side of a landfill which restricts the downward or lateral escape of solid waste, any constituents of such waste, or leachate and which complies with 6 NYCRR Part 360-2.

f. Slope Stability Safety Factor: The numerical value obtained from an analysis of the stability of a slope; the numerical value is computed as the ratio of the total force resisting failure to the total driving force tending to produce failure.

g. Solid Waste: As defined in 6 NYCRR Part 360.

SECTION 5. Applicability.

5.1 This Local Law shall apply to any new solid waste landfill located within the County of Cattaraugus whose construction requires a construction permit from the New York State Department of Environmental Conservation, which permit has not been granted on the effective date of this Local Law.

5.2 This Local Law shall not apply to the expansion of any existing landfill within the current site thereof.

5.3 The County of Cattaraugus recognizes that pursuant to ECL Section 27-0711, this Local Law shall not be in effect with respect to any new landfill located in any city, village or area of any town, located within the County of Cattaraugus, during the time that such city, village or town has in effect any local law, ordinance or regulations promulgated pursuant to ECL Section 27-0711, provided that such local law, ordinance or regulations are not inconsistent with the New York State Environmental Conservation Law. In the event that any city, village or town repeals or ceases to have any local law, ordinance or regulations described in this subsection, this Local Law shall thereupon automatically take effect in such city, village or town.

SECTION 6. Depth to Groundwater. A minimum separation of five feet must be maintained between the base of the constructed liner system of a landfill and the seasonal high groundwater table.

SECTION 7. Double Composite Liner System.

7.1 All landfills are required to utilize a double composite liner system as described in this Section, and which must include a primary leachate collection and removal system consisting of a granular soil layer at least 24 inches thick with a leachate collection pipe network.

7.2 The primary leachate collection and removal system must lie above the primary (upper) composite liner, which must consist of a geomembrane of at least 60 mil that directly overlays a soil layer of

at least 18 inches in thickness compacted to a maximum permeability of 1×10^{-7} cm/s.

7.3 The primary composite liner must lie above the secondary leachate collection and removal system, which must consist of either a leachate collection pipe network with a granular soil layer of at least 12 inches in thickness, or an effective layer of geosynthetic material.

7.4 The secondary leachate collection and removal system must lie above the secondary (lower) composite liner, which must consist of a geomembrane of at least 60 mil that directly overlays a low permeability soil layer of at least 24 inches in thickness.

7.5 *The applicant shall demonstrate that the natural and synthetic materials to be utilized in constructing the liner system are not susceptible to being corroded, dissolved, or otherwise degraded or impaired by leachate expected to be generated by the waste in the landfill.*¹

SECTION 8. Slope Stability. All landfill slopes, including those for the slopes inside the landfill, the liner, and all interfaces within the liner system, must have a slope stability safety factor of at least 2.0 under static conditions and 1.5 under seismic conditions. The methodologies for calculating the slope stability safety factors shall be determined by the County Administrator after consultation with suitable qualified experts.

SECTION 9. Preferential Contaminant Migration Pathways.

9.1 The hydrogeologic report required by the New York State Department of Environmental Conservation for a permit to construct and to operate a landfill pursuant to 6 NYCRR Part 360-2.3 must include, or be supplemented to include, in addition to the requirements set forth at 6 NYCRR Part 360-2.11, investigations designed to determine whether and to what extent preferential groundwater and contaminant migration pathways exist on the proposed site.

9.2 In the event that such investigations establish the presence of sand or gravel lenses, the applicant shall undertake studies designed to determine their extent and the values of horizontal permeability (hydraulic conductivity) and seepage velocity associated with such zones.

9.3 The hydrogeologic report must include identification and characterization of major bedrock fractures/fracture zones that may provide preferential migration pathways. The County Administrator shall, after consultation with suitably qualified experts, specify the nature and extent of characterization activities for particular sites to reflect site conditions.

SECTION 10. Freshwater Wetlands. No landfill or associated roads, buildings, utilities, or other appurtenant physical features (including construction staging areas) shall be constructed on any lands or waters meeting either the definitions of freshwater wetlands set forth in ECL Section 24-0107.1 and 6 NYCRR Part 664, or 33 Code of Federal Regulations ("CFR") Section 328.3(b) and 40 CFR Section 230.3(t), regardless of and notwithstanding the size of such wetlands, or formal designation as such.

SECTION 11. Soil. All native soil beneath the landfill shall have a horizontal hydraulic conductivity of 1×10^{-5} centimeters per second or less, as determined by in-situ hydraulic conductivity test methods, and vertical hydraulic conductivity of 1×10^{-6} centimeters per second or less.

SECTION 12. Applicant Information. Each applicant for a landfill permit shall submit to the County Administrator, on such form as the County Administrator shall prescribe, information on the qualifications, compliance record, corporate structure and financial status of applicant and applicant's owners, affiliates, partners, and subsidiaries, and the officers, directors, partners and major shareholders of such entities.

SECTION 13. Administration.

(a) No person may construct a solid waste landfill without having obtained a permit therefor from the County Administrator. Every permit application shall be accompanied by a draft or final environmental impact statement prepared in accordance with the State Environmental Quality Review Act, and by a demonstration of compliance with the standards of this local law. The County Administrator shall hold a public hearing on each complete application and shall grant a permit if the County Administrator finds that (1) the standards of this local law have been met, (2) the applicant possesses suitable qualifications, and (3) the landfill will not have a detrimental effect on public health or the environment.

(b) Any person aggrieved by the decision of the County Administrator may within sixty days of its issuance, appeal to the County Legislature, which shall hold a public hearing on each such appeal. The County Legislature may uphold the decision; may grant a variance if it finds that, notwithstanding failure to meet one or more of the standards of this local law, the landfill will not have a detrimental effect on public health or the environment; may overturn the issuance of the permit if it finds, after de novo review, that the County Administrator's findings were erroneous; or may grant such other relief as, in its judgment, is appropriate in order to effectuate the purposes of this local law.

SECTION 14. Severability. If any provision of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, then such adjudication, shall not effect, impair or invalidate the

remainder thereof, but shall be confined in its operation to the particular provision directly involved in the controversy in which such judgment shall have been rendered.

SECTION 15. Effect of Local Law. This Local Law does not create any right to construct a landfill within the County of Cattaraugus. It is intended only to regulate landfills permitted by applicable law.

SECTION 16. Preexisting Law. In the event of any inconsistency between this Local Law and Local Law Number 2-1990 (Intro No. 1-1990), this Local Law shall control. Local Law Number 2-1990 (Intro No. 1-1990) is otherwise continued in effect.

SECTION 17. Effective Date. This Local Law shall take effect immediately.

Fiscal Impact: none

Approved by 8 members of the Public Works Committee.

¹ MR. KRAUSE moved, seconded by Mr. Rostan that Act No. 147-2000 be amended as follows: Add paragraph 7.5 as follows: "7.5 The applicant shall demonstrate that the natural and synthetic materials to be utilized in constructing the liner system are not susceptible to being corroded, dissolved, or otherwise degraded or impaired by leachate expected to be generated by the waste in the landfill." Carried.

On March 22, 2000, CHAIR FITZPATRICK called up **Act No. 147-2000**, Local Law Number 3-2000, A Local Law Regarding the Construction of Solid Waste Landfills in Cattaraugus County, New York, and asked that it be read.

CHAIR FITZPATRICK requested a Roll Call Vote on Act 147-2000, which disclosed as follows:

Ayes: Abers, Anastasia, Baker, E. Ellis, J. Ellis, Felton, Ginter, Helms, Krause, McCrea, Moser, Rostan, Schafer, Vecchiarella, Zimbaridi, Zollinger, Fitzpatrick - 17.

Nays: 0.

Act No. 147-2000, having received the majority vote of the Legislature, was declared Adopted.

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