

(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~~
Town
~~VILLAGE~~

of MURRAY

Local Law No. 3 of the year 19 93

A local law entitled "Solid Waste Disposal Law of the Town of Murray."
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~COUNTY~~
~~CITY~~
Town
~~VILLAGE~~

of Murray as follows:

(SEE ATTACHED PAGES 2 THROUGH 10 FOR TEXT OF LOCAL LAW)

(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 the "SOLID WASTE DISPOSAL LAW OF THE TOWN OF MURRAY".

II. A. Findings of the Town Board

The Town Board finds that environmental science is presently inadequate to satisfactorily evaluate and control pollution from solid waste disposal facilities such as landfills; ashfills; resource recovery or incinerator facilities. Among other factors, the Board finds as follows:

1. The State of New York has acknowledged in its adoption of the Environmental Conservation Law, in particular Section 27-0130, that the basic responsibility for the planning and operation of solid waste management facilities remains with local governments.

2. There exists a potential problem of controlling pollution from solid waste disposal facilities such as landfills, and that the costs of future correction of pollution may well be prohibitive even if correction is possible.

3. The inability of geological science to precisely ascertain the existence and flow of groundwaters and to map subterranean geology makes it impossible to determine the extent to which solid waste disposal may, or may not, be contaminating water supplies.

4. Moreover, the accumulated extent of hazardous waste disposal in solid 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.

5. Groundwater and surface water pollution threatens the health and livelihood of Town residents, including those people who rely exclusively on groundwater for human consumption and agricultural purposes.

6. Placement of a solid waste landfill within our Town may present a potential threat to the safety, health, and well being of the people in the Town of Murray.

7. The Town's needs for solid waste disposal are more than adequately met by existing landfill facilities located within the area which facilities have obtained New York State permits to operate.

8. The Town's existing community character would be adversely and unalterably impacted by the location and operation of any solid waste disposal facility within the Town.

9. That Solid Waste regulation under the New York Environmental Conservation Law (ECL) and 6 NYCRR Part 360 deals with technical regulatory matters and is inadequate to relieve the foregoing concerns, including effects on land use and planning.

10. The State Environmental Conservation Law invites local government to establish more strict standards necessary, in its judgment, to promote and protect the well being, health and safety of its citizens.

B. Purposes of Local Law

The Town Board intends by this Local Law:

1. To prohibit the operation of solid waste facilities within the Town in order to preserve and promote a clean, wholesome and attractive environment for the community.

2. To 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.

3. To exercise the Town's police powers pursuant to the Municipal Home Rule and Town Laws 130 and 136 and accept the invitation of the State to adopt stricter controls on solid waste disposal operations than State law requires to protect the physical and mental well-being and safety of its citizens.

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, recycling or disposing of hazardous wastes.

B. HAZARDOUS WASTE - Waste meeting the definition set forth in 6 New York Codes, Rules and Regulations (NYCRR) Part 371.

C. RADIOACTIVE WASTE - Waste as defined in 6 NYCRR Part 382.

D. INFECTIOUS WASTE - Waste as defined in 6 NYCRR Part 360-1.2.

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

F. SOLID WASTE MANAGEMENT FACILITY - Any facility employed beyond the initial solid waste collection process and managing solid waste including, but not limited to: storage areas or facilities; transfer stations; rail-haul or barge-haul facilities; processing facilities; landfills; ashfills; disposal facilities; solid waste incinerators; recycling facilities; and commercial composting facilities.

G. SOLID 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 garbage, rubbish, refuse, and construction and demolition debris generated by and defined herein as industrial, commercial and household 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 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 or before being disposed of.

2. A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked, landfilled, or placed into or on any land or water.

H. INDUSTRIAL WASTE - any liquid, gaseous, soiled, or waste 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., that do not fall under 6 NYCRR Part 371, but may contain hazardous substances below the levels defined as hazardous waste.

I. COMMERCIAL WASTE - solid waste generated by stores, offices, warehouses, and restaurants.

J. HOUSEHOLD WASTE - Solid waste from residential sources, including rubbish.

K. LANDFILL OR SANITARY LANDFILL - any disposal area for solid wastes as herein defined in or upon the ground. —

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

M. 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.

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

O. 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.

P. 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.

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

R. 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.

S. 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.

T. 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. This definition specifically excludes incineration or burning for energy recovery.

IV. EXEMPTIONS

The following are not subject to this Local Law:

- A. Any disposal of manure in normal farming operations.
- B. Any operation or facility which receives or collects only non-putrescible, nonhazardous solid waste and beneficially uses or reuses or legitimately recycles or reclaims such waste. Such exempt facilities would include citizen recycling programs, municipal recycling programs, municipal recycling operations, and bona-fide salvage dealers.

None of the above exemptions shall be construed to permit any activity contrary to existing 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.

V. PROHIBITED ACTIVITY

- A. No hazardous, radioactive or infectious waste treatment, storage, or disposal facility shall be permitted.
- B. No solid or liquid waste management facility (landfill, ashfill, solid waste incinerator, etc.) shall be permitted.
- C. Waivers from these prohibitions may be granted by the Town Board in its discretion, and such conditions as it may reasonably establish, only for facilities located on an applicant's premises and serving only the applicant's waste products generated within the Town. Persons who believe they qualify for such a waiver shall apply to the Town Board and provide such information, proof of financial security, and other

such documents as the Town Board may reasonably require. No person who qualifies for and receives this waiver shall accept, handle, import, transport, or handle any waste created or generated by any other party or from any location outside of the Town. In addition, such person shall be liable for all damages and claims that may result from disposal of any solid or liquid waste on his or her premises.

VI. ENFORCEMENT

A. Upon a 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 or liquid waste disposed of in violation hereof be removed from the Town, ordering that any land on which solid 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/or 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 for each violation. Each day of non-compliance shall be a 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.

D. If any person who obtained a waiver pursuant to Section V(C) violates any term or condition of the waiver then the Town, in addition to the enforcement rights contained in this Section, shall also be entitled to revoke the waiver.

VII. MISCELLANEOUS

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

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 full 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 to further regulate the subject matter of this Local Law.

VIII. EFFECTIVE DATE

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

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