

Chapter 91
SOLID WASTE

ARTICLE I
Waste Management Facilities

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[HISTORY: Adopted by the Town Board of the Town of New Baltimore as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Waste Management Facilities
[Adopted 9-28-1999 by L.L. No. 4-1999]

§ 91-1. Title.

This article shall be known as and may be cited as the "Waste Management Facilities Law of the Town of New Baltimore. "

§ 91-2. Findings.

The Town Board finds that environmental science is presently inadequate to satisfactorily evaluate and control pollution from waste disposal sites or solid and liquid waste management facilities such as landfills, ashfills,

resource recovery or incineration facilities. Among other factors, the Board finds as follows:

- A. 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.
- B. 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.
- C. The town's need for solid and liquid waste disposal is being met.
- D. 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.
- E. 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 or waste disposal sites within the town.
- F. Waste disposal facilities may pose a risk to underground wells, the town's drinking water source.
- G. 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.
- H. Solid and liquid waste regulation under the New York Environmental Conservation Law (ECL) is inadequate to relieve the forgoing concerns.

§ 91-3. Purpose.

The town intends by this article to:

- A. Prohibit the operation of solid waste disposal sites and waste management facilities within the Town of New Baltimore in order to promote a clean, wholesome and attractive environment for the community.

- B. Ensure that accurate, current information is available to public officials and citizens concerning prohibited solid waste disposal operations within the town.
- C. Protect the residents of the town from undesirable effects of solid waste disposal operations, including:
 - (1) Unaesthetic results, including odors, blowing litter and increased traffic, dust and noise.
 - (2) Deterioration in property values associated with adjacent or proximate waste management operations that may interfere with the orderly development of properties.
 - (3) Threats to public health or the environment by contamination of air, surface water or groundwaters.
- D. To exercise the town's police powers under the Municipal Home Rule Law and §§ 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.

§ 91-4. Applicability.

This article shall apply to all areas within the Town of New Baltimore.

§ 91-5. Definitions.

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

COMMERCIAL WASTE - Liquid or solid waste generated by factories,

stores, offices, warehouses and restaurants.

COMPOSTING - Aerobic decomposition of solid organic constituents of solid waste to produce humus-like material used for fertilizing and conditioning land.

CONSTRUCTION AND DEMOLITION DEBRIS - Inert solid waste resulting from the construction, remodeling, repair and demolition of structures and from road building and land clearing. Such waste includes, but is not limited to, 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.

DEC - The New York State Department of Environmental Conservation.

DISPOSAL - The placement, distribution, storage, removal or transportation of solid or liquid wastes.

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

MANURE - Refuse of stables and barnyards consisting of livestock and avian excreta with or without litter used for fertilizing land.

PERSON - Includes any individual; firm; partnership; corporation, public or private; company, public or private; municipality or other public or governmental body; professional or other association; trust; business trust; joint venture; and any combination thereof.

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

RESIDENTIAL SOLID WASTE - Liquid or solid waste from residential sources.

SOLID OR LIQUID WASTE MATERIAL - All putrescible and nonputrescible 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, rail-haul facilities, landfills, ashfills, disposal facilities, solid waste incinerators, resource recovery facilities, recycling facilities and waste tire storage facilities, containment ponds or pools and storage tanks or containers or any other facility of any kind designated a solid waste management facility by the DEC.

WASTE DISPOSAL SITE - Includes, without limitation, a place or facility used for the storage, dumping, discharge, deposit, injection, spilling, discarding, disposal, leaking, burying, burning or abandonment by the public or by any person of any solid or liquid waste material 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, refuse, radioactive material, pathological or medical waste, toxic or hazardous material, industrial and commercial waste, residential solid waste, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris and discarded automobiles.

§ 91-6. Exemptions.

A. The following are not subject to this article:

- (1) Any disposal and storage of manure in farming operations following sound agricultural practices, but not including sewage

sludge processing and spreading.

- (2) Operations or facilities which receive or collect only nonputrescible, nonhazardous solid waste and beneficially use or reuse or legitimately recycle or reclaim such waste. Such exempt facilities are limited to citizen recycling programs, town recycling operations, composting, farming operations, town highway operations and bona-fide salvage dealers.
- (3) The Town of New Baltimore sewage treatment facility, but not including any other municipal or nonmunicipal sewage sludge spreading facility.
- (4) Any bona-fide solid waste management facility previously in existence on the effective date of this article shall remain exempt under the current terms and conditions of their DEC operating permit.
- (5) Any disposal by the owner or the owner's contractor on the owner's property of any residential construction and demolition debris from the owner's property permitted under state law.

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.

§ 91-7. Coordination with state law.

- A. All relevant sections of Article 27 of the ECL and 6 NYCRR, Sections 360 to 364 and 617, are deemed to be included within and as part of this article, and any violation thereof shall be considered to constitute a violation of this article.
- B. The provisions of this article shall be interpreted in such a manner as being consistent with state law, except that the more stringent requirements of this article shall apply.

§ 91-8. Facilities prohibited.

No waste disposal site or solid waste management facility shall be constructed or allowed to commence operation.

§ 91-9. Penalties for offenses; enforcement.

- A. All violations of this article or any of its regulations or provisions shall be deemed Class A misdemeanors, punishable by a fine not exceeding \$5,000 or imprisonment not exceeding one year, or both. Each and every day that a violation of this article is permitted to exist shall constitute a separate offense.
- B. Any violation of this article or regulations or provisions thereof shall create a liability to the people of the town for civil penalty not to exceed \$5,000 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 article occurs or continues shall constitute a separate violation for purposes of civil liability.
- C. Upon any violation of this article 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 of 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 article 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.