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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 York
Town
Village

Local Law No. 1 of the year 19 89

A local law "Solid, Industrial Hazardous and Hazardous Waste Management,
(Insert title)
Treatment, Storage, and Disposal Facility Law of the Town
of York."

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

County
City of York
Town
Village as follows:

§1. Title

This local law shall be known as and may be cited as the "Solid, Industrial Hazardous and Hazardous Waste Management, Treatment, Storage, and Disposal Facility Law of the Town of York."

§2. Findings of the Town Board

A. The Town Board finds that the siting, construction, and operation of solid, industrial hazardous and hazardous waste management, treatment, storage and disposal facilities are by their very nature potentially dangerous to the environment and to the health, safety, and general welfare of the Town's citizens.

B. The Town Board further finds that solid, industrial hazardous and hazardous waste regulation under the New York Environmental Conservation Law is inadequate to relieve the foregoing concerns.

§3. Purposes of Local Law

The Town Board intends by this law:

- 1. To regulate the siting, construction and operation of solid, industrial hazardous and hazardous waste management, treatment, storage and disposal facilities in order to preserve and promote a clean, wholesome, and attractive environment for the community;
- 2. To protect the Town's citizens from the effects of

solid, industrial hazardous and hazardous waste disposal, including:

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

3. 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 the Town's citizens.

§4. Definitions

A. Unless indicated otherwise herein or unless the context shall otherwise require, the terms and words used in this local law shall have the same meaning as those defined in Article 27 of the ECL and regulations promulgated thereunder.

B. As used in this local law:

1. "ECL" means the New York Environmental Conservation Law.

2. "DEC" means the New York Department of Environmental Conservation.

3. "Environment" means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, resources of agricultural, archeological, historic or aesthetic significance, existing patterns of population concentration, distribution or growth, existing community or neighborhood character, and human health.

4. "Hazardous waste" means a waste or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

5. "Hazardous waste management" means the systematic control of the collection, resource separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

6. "Industrial hazardous waste" means an industrial waste or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristic may:

a. Cause or significantly contribute to an increase in serious irreversible or incapacitating reversible illness: and/or

b. Pose a substantial present or potential hazard to human health or the environment and, therefore, must be segregated and excluded from the general municipal waste system and sewage collection and treatment process.

7. "Industrial hazardous waste treatment, storage and disposal facility" or "industrial hazardous waste TSD facility" means a specialized facility or site, for the purpose of treating, storing, compacting, recycling, exchanging, or disposing of industrial hazardous waste materials whether above or below ground or water level, including but not limited to, treatment, compacting, resource recovery or disposal plants, equipment and furnishings thereof used for the storage, treatment, compacting, composting, shredding, converting, utilization, processing, or final disposal of hazardous waste, including, but not limited to, mechanical, chemical or thermal processing systems, incinerators, landfills, or ashfills whether above or below ground, other facilities for the storage, reduction or conversion of hazardous waste, including, but not limited to, transfer stations, baling facilities, railroad and maritime facilities, motor trucks or vehicles and appurtenances, furnishings, equipment and machinery deemed necessary thereto.

8. "Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, federal government and any agency thereof, municipality, commission, political subdivision of a State, any interstate body, and any other legal entity whatsoever.

9. "SEQRA" means the New York State Environmental Quality Review Act.

10. "Siting, construction, and operating permit" means that permit issued by the Town Board which allows a person to construct or modify a solid, industrial hazardous, or hazardous waste management treatment, storage and disposal facility.

11. "Solid waste" means all putrescible and non-putrescible materials or substances 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, industrial and commercial waste, sludges from air or water control facilities, rubbish, ashes, contained gaseous material, incinerator residues, demolition and construction debris, discarded automobiles and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form.

12. "Solid waste management facility" means any facility employed beyond the initial solid waste collection process for the purpose of treating, storing, compacting, recycling, exchanging or disposing of solid waste whether above or below ground or water level, including, but not limited to, transfer stations, baling facilities, rail haul or barge haul facilities, processing systems, including resource recovery facilities or other facilities for reducing solid waste volume, landfills or ashfills, plants and facilities for compacting, composting, disposing or pyrolyzation of solid wastes, incinerators, and other solid waste disposal, storage, reduction, or conversion facilities whether above or below ground or water level.

13. "Town" means the Town of York, Livingston County, New York.

14. "Town Board" means the Town Board of the Town of York, Livingston County, New York.

§5. Coordination With Other Laws

A. All relevant sections of Article 27 of the ECL and regulations promulgated thereunder, as amended from time to time, are deemed to be included within and as part of this local law, and any violation thereof shall be considered to constitute a violation of this local law.

B. The provisions of this local law shall be interpreted in such a manner as to be consistent with State law, except that this local law may provide more stringent regulations.

§6. Exemptions

A. The following are not subject to this local law:

1. Any sewage treatment facility within the Town operated by the Town or the County of Livingston.

2. Any person, site or facility which treats, stores, compacts, recycles, exchanges, disposes or otherwise manages solid waste or industrial hazardous waste or hazardous waste solely at the site of generation of such waste.

B. None of the foregoing exemptions shall be construed to permit any activity contrary to existing building codes or zoning ordinances or any other State or local laws.

§7. Permit Requirements

A. No person shall construct, modify or operate a solid, industrial hazardous or hazardous waste management, treatment, storage or disposal facility within the Town without a siting, construction, and operating permit issued by the Town Board pursuant to the provisions of this local law.

B. The following acts are deemed to be modifications which require a siting, construction, and operating permit:

1. An expansion of the facility by acquisition, by purchase, lease or otherwise, of additional land which was not the subject of or included in any application submitted under this local law; or

2. An increase in the total quantity of solid, industrial hazardous or hazardous waste received during any quarter at the facility by fifty percent (50%) or more over the total quantity of solid, industrial hazardous or hazardous waste received during the comparable quarter of the preceding year, except where such increase is not in excess of the approved design capacity of such facility for such time period; or

3. A movement of the facility's operation to a portion of property already owned, leased or otherwise held by the facility which was not the subject of or included in any application submitted under this local law; or

4. An expansion of the facility by the installation of additional processing equipment which increases the approved design capacity of the facility or which changes the facility process; or

5. An expansion by a person, site, or facility exempt from permit requirements because it treats, stores, disposes or otherwise manages solid, industrial hazardous or hazardous waste solely at the site of generation, such that the person, site or facility now treats, stores, disposes or otherwise manages such waste which is not generated on-site.

C. The term or period of the siting, construction, and operating permit issued shall be determined by the Town Board using criteria set forth in New York State laws and regulations, but shall be no less than one (1) year and no more than five (5) years. If a multi-year permit is issued, the facility shall be subject to an annual review by the Town Board as a condition of continued operation.

D. No siting, construction, and operating permit issued pursuant to the provisions of this local law shall be transferable to another person unless the original permit clearly provides for such transfer.

§8. Permit Application Contents

A. All applications for a siting, construction, and operating permit shall include the following:

1. A completed application upon a form prescribed by the Town Board and available from the Town Clerk;

2. A certification from the DEC to the Town Board that the applicant's proposal is in conformity with all applicable standards in the ECL and regulations promulgated thereunder;

3. A certification from the New York Department of Health to the Town Board that the applicant's proposal is in conformity with all applicable standards in the New York Public Health Law and regulations promulgated thereunder; and

4. Such other data and information which the Town Board may reasonably require.

B. All applications shall be accompanied by evidence of authority to sign the application and shall be signed as follows:

1. Corporations: By a duly authorized principal executive officer of at least the level of vice president, accompanied by a certified copy of the authorizing corporate resolution.

2. Partnerships: By a general partner.

3. Sole Proprietorships: By the proprietor.

C. All applications shall be sworn to by or on behalf of the applicant in respect to all statements of fact therein or shall bear an executed statement by or on behalf of the applicant, pursuant to the New York Penal Law §210.45, to the effect that false statements made therein are made under penalty of perjury.

D. Each application shall be accompanied by a fee of one thousand dollars (\$1,000.00) to defray the cost of review thereof, and the Town reserves the right to request additional monies to defray expenses as provided under SEQRA and regulations promulgated thereunder.

§9. Permit Application Procedures

A. Any person who proposes to construct, modify or operate a solid, industrial hazardous, or hazardous waste management, treatment, storage or disposal facility in the Town shall submit a completed application for a siting, construction, and operating permit to the Town Board prior to commencement of any such construction or modification.

B. Within one hundred twenty (120) days following receipt of a completed application or such longer period as may be agreed upon in writing by the Town Board and the applicant, the Town Board shall notify the applicant in writing of its decision to either grant or deny the permit.

C. The Town Board's decision to grant or deny the permit shall be based upon its review and determination of the following issues:

1. Whether the applicant's proposal is in compliance with all applicable laws and regulations:

2. Whether the applicant's proposal will significantly impact or threaten the environment or the health, safety, and general welfare of the Town's citizens;

3. Whether the applicant has demonstrated adequate contingency plans for corrective or remedial action to be taken in the event of equipment breakdowns, ground or surface water or air contamination attributable to the facility's operation, fires, and spills or releases of toxic materials; and

4. Whether the applicant has demonstrated an adequate program for closure of the facility, to be implemented when use of the facility or a part of the facility permanently terminates.

D. The Town Board shall hold a public hearing concerning the permit application, within sixty (60) days of the Town Board's receipt of a completed application or such longer period as may be agreed upon in writing by the Town Board and the applicant.

E. In granting or denying a permit, the Town Board shall state in its written notification to the applicant the reasons for such grant or denial, as the case may be.

§10. Bonds and Insurance

A. As a condition of the issuance of any siting, construction, and operating permit, the Town Board may request the following bonds or insurance issued by a bonding, surety or insurance company acceptable to and in an amount set by the Town Board:

1. Performance bond, to ensure the proper performance of the work and siting of the facility pursuant to the details of the application, the dictates of this local law, and any other local or state law.

2. Restoration bond, to ensure that all restoration work is completed pursuant to the plan submitted with the application, the dictates of this local law, and any other local law or state law.

3. Penalty bond, to ensure that all penalties levied and judgments secured pursuant to this local law are promptly tendered and satisfied.

4. Liability insurance, to cover injuries to person and property.

B. The Town reserves the right to require that the Town be a named insured on any policy required hereunder.

C. The terms and conditions of all such bonds and insurance shall be clearly set forth in detail on the permit, including the amounts of such bonds and insurance.

§11. Reissuance of Permits

A. Any holder of a siting, construction, and operating permit who intends to continue construction or operations beyond the period of time covered in such permit must file for reissuance of such permit at least thirty (30) days prior to its expiration. Filing for reissuance shall be made by the permit holder on a form prescribed by the Town Board and available from the Town Clerk, or if no such form is prescribed, then on the same form as was previously filed. The provisions of this local law relative to submittal and processing of initial applications shall apply to reissuance applications under this section to the extent indicated by the Town Board.

B. Upon review of a reissuance application, the Town Board shall determine whether the permittee has complied with all terms, conditions, and requirements of the expiring permit and of this local law.

1. If the Town Board determines in the affirmative, the permit may be reissued.

2. If the Town Board determines in the negative or if other circumstances exist which indicate non-compliance with any provisions of this local law or the original permit, the Town Board shall take appropriate action to secure compliance, including, but not limited to, a denial of reissuance.

§12. Modification, Suspension, and Revocation of Permits

A. After notice and opportunity for a hearing, any permit issued pursuant to this local law may be modified, suspended or revoked, in whole or in part, during its term for cause, including, but not limited to, the following:

1. Violation of any part of this local law or any term of a permit issued hereunder;

2. Obtaining a permit by misrepresentation or a failure to fully disclose all relevant facts;

3. Materially false or inaccurate statements or information in a permit application; or

4. Continuation of a permit would significantly impact the environment or the health, safety, and general welfare of the Town's citizens.

B. The Town Board may revise or modify a schedule of compliance or other terms in an issued permit if it determines good cause exists for such revision or modification.

§13. Access to Premises; Records

A. The Town Board and its authorized agents may inspect as often as they deem necessary, each solid, industrial hazardous, or hazardous waste management, treatment, storage or disposal facility permitted under the provisions of this local law. For the purposes of making such inspection, the Town Board and its authorized agents shall have free access to all facilities permitted hereunder.

B. Permittees shall maintain all records concerning the siting, construction, and operation of a facility permitted under the provisions of this local law, and such records shall be open to inspection by the Town Board and its authorized agents at any time during normal working hours.

§14. Site Monitor

A. The Town Board, may in its discretion appoint a person with suitable qualifications as either a full or part time on-site agent for the Town of York. Said agent shall have authority:

1. To monitor any facility issued a siting, construction and operating permit pursuant to the provisions of this local law and determine whether the operator is complying with all siting permits and zoning requirements and the requirements of all Town Laws and Ordinances.

2. To report to the Town Board, at such times as the Town Board requires, as to the operation of such facility.

3. To test all materials deposited in/or placed upon any such facility and to test any surface or ground waters and soils within or adjacent to said facility and to conduct any other environmental tests he may deem necessary or advisable.

§15. Enforcement

A. Upon a violation by any person of this local law or any permit issued hereunder, the Town Board shall be entitled to obtain an injunction against such person prohibiting further violations and, in addition, ordering that any solid, industrial hazardous or hazardous waste illegally disposed of be removed, and ordering that any land on which solid, industrial hazardous or hazardous waste is illegally disposed of 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 on surrounding or adjacent properties or resources, including without limitation, soil, air, crops, water bodies, wetlands, and groundwaters.

B. For any violation of this local law or any permit issued hereunder, 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 offense. The Town shall be entitled to recover such penalties 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 judgement for its costs, expenses, disbursements, and reasonable attorneys' fees in connection therewith.

§16. Repealer

This local law shall be deemed to supersede and repeal any other ordinances and local laws to the extent inconsistent therewith; provided, however, that the provisions of this local law shall not be interpreted as obviating any requirements or restrictions wherever it is possible to conform with the provisions of both this local law and any other law or ordinance. This local law shall be construed as being in addition to all Town Local Zoning Codes and Ordinances and the Environmental Conservation Law of the State of New York.

§17. Severability

If any part or provision of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the remainder of this local law or the application thereof to other persons and circumstances shall not be affected thereby, and the Town Board hereby declares that it would have enacted this local law without the invalid provision or application, as the case may be, had such invalidity been apparent.

§18. Effective Date

This local law shall take effect immediately upon filing in accordance with the Municipal Home Rule Law.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein 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 1989.....
County
City
of the Town of York..... was duly passed by the Town Board.....
Village (Name of Legislative Body)
on May 4 19 89..... in accordance with the applicable provisions of law.

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

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

3. (Final adoption by referendum.)

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

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

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

*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 chairman of the county legislative body, the mayor of a city or village or the supervisor of a town where such officer is vested with 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 §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 of 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 paragraph¹..... above.


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

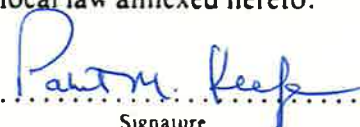
Date: May 5, 1989

(Seal)

(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 Livingston

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.


.....
Signature
Town Attorney
.....
Title

Date: May 5, 1989

County
City of York