

(Please Use this Form for Filing your 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 Augusta.....
Town
xxxxx ~~Village~~

Local Law No.2..... of the year 19 ..85....

A local law "Solid Waste Management Law of the Town of Augusta"
(Insert title)

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

~~County~~
~~City~~ of Augusta..... as follows:
Town
~~Village~~

AS SET FORTH AT SCHEDULE A ATTACHED HERETO
AND MADE A PART HEREOF.

Date:

8/28/85

Dear Sir/Madam:

Please be advised that Local Law(s) No. 2
of 1985 of the Town of Augusta
was/were received and filed on 8/26/85

Additional forms for filing local laws with this office will be forwarded upon request.

NYS Department of State
Bureau of State Records

(If additional

383602-004 (12/82)

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ARTICLE I

Title

This Local Law shall be known as and be cited as the "Solid Waste Management Law of the Town of Augusta."

Purpose

1. To provide for monitoring and control by the Town Board of solid waste management activities in the Town of Augusta; and
2. To provide for specific penalties imposed by the Town for violations of this law; and
3. To provide environmental and public health protection from solid waste management activities.

ARTICLE II

Definitions

Unless indicated 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 Environmental Conservation Law and 6 NYCRR Part 360 and regulations promulgated by the New York State Department of Environmental Conservation.

The following terms and words shall be defined as follows:

BOARD: shall mean the Town Board of the Town of Augusta, County of Oneida, State of New York.

FACILITY: shall mean industrial waste disposal site, incineration plant, recycling plant, sanitary landfill and/or solid waste management facility.

PERMIT: shall be construed to mean written authority as provided by the Town Board for the purpose of siting or locating, constructing, operating, expanding, or modifying a facility.

NYSDEC: New York State Department of Environmental Conservation

SCRAP YARD/JUNK YARD BUSINESS: A business operated on an area of land, with or without buildings, primarily used for the storage outside of a completely enclosed building, of used and discarded materials, including but not limited to waste paper, rags, metal, building materials, house furnishings, machinery, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage of two or more wrecked or broken motor vehicles for a period of two months or longer, or the major parts of two or more such vehicles shall be deemed to make a lot a "junk yard".

SOLID WASTE:

- 1) A solid waste is any garbage, refuse, sludge or any other waste material which is not excluded under item 6 below.
- 2) An "other waste material" is any solid, liquid, semi-solid or contained gaseous material, resulting from industrial, commercial, mining or agricultural operations, or from community activities which:
 - i) is discarded, or is being accumulated, stored, or physically, chemically or biologically treated prior to being discarded; or
 - ii) has served its original intended use and sometimes is discarded; or
 - iii) is a manufacturing or mining by-product and sometimes is discarded.
- 3) A material is "discarded" if it is abandoned by being:
 - i) disposed of; or
 - ii) burned or incinerated, including being burned as a fuel for the purpose of recovering usable energy; or
 - iii) physically, chemically, or biologically treated (other than burned or incinerated) in lieu of or prior to being disposed of.
- 4) A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into ground or surface waters.
- 5) A "manufacturing or mining by-product" is a material that is not one of the primary products of a particular manufacturing or mining operation, is a secondary and incidental product of the particular operation, and would not be solely and separately manufactured or mined by the particular manufacturing or mining operation. The term does not include an intermediate manufacturing or mining product which results from one of the steps in a manufacturing or mining process and is typically processed through the next step of the process within a short time.
- 6) The following materials are not solid wastes for the purposes of this Part:
 - i) a. domestic sewage; and
 - b. any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.
 - ii) Industrial wastewater discharges that are point source discharges subject to permits under Article 17 of the Environmental Conservation Law.

(NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.)

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- iii) Irrigation return flows.
 - iv) Radioactive materials which are source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.
 - v) Materials subject to in-site mining techniques which are not removed from the ground as part of the extraction process.

ARTICLE III

Coordination With Other Laws

1. All relevant sections of Article 27 of the New York State Environmental Conservation Law and Titles 6 and 7 of the New York Codes, Rules and Regulations, Part 360 and subsequent amendments that are specifically referenced in and by this Local Law 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. Nothing contained herein shall be construed as changing, modifying or amending the Zoning Ordinance of the Town of Augusta and all requirements shall be construed as being in addition thereto and by virtue of the power granted to the Town under Town Law.
2. All facilities will be in compliance with 6 NYCRR Part 360 pursuant to Article 27 Title 7 and 9 of the Environmental Conservation Law as administered by the New York State Department of Environmental Conservation (DEC). The DEC will be responsible for inspecting, monitoring and enforcing compliance, particularly section 360.8(b)(1) "Sanitary Landfill". Violation and/or non-compliance with any provision of Part 360 shall be deemed a violation of this Local Law.

ARTICLE IV

Permit Requirements : Except when a Certificate of Environmental Safety and Public Necessity from the Facility Siting Board has been issued,

1. no person shall construct, operate, modify or expand a facility without a permit issued by the Town Board following a public hearing pursuant to the provisions of this Local Law. The term or period of any such permit shall be determined by the Town Board utilizing the criteria set forth in this Local Law, but shall be no less than one (1) year and no more than five (5) year period.
2. No permit issued pursuant to the provisions of this Local Law shall be transferrable to any other firm or corporation. A new and separate permit shall be necessary pursuant to the provisions set forth in this Local Law.
3. No permit will be issued or even considered unless the following has been submitted or granted:

Pursuant to Part 360 of the 6NYCRR and Article 27 Title 7 and 9 of the Environmental Conservation Law, a timely and fully completed application and/or validated permit or permits as required by said

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Part 360 and the NYSDEC. A copy or copies of said application and/or permit or permits shall be filed with the Town Board as part of the requirement for consideration and/or approval.

4. As a continuing process of the permit requirements, the following is deemed necessary:
 - a. Operators of any and all facilities, whether existing or proposed, are required to submit reports as a condition of the applied for permit. Such reports are to be submitted to the Town Board twice annually on the dates specified by the Board and as so stipulated in the permit. An extension of no more than thirty (30) days past the specified submission date may be granted by the Board if the operator can establish sufficient reason(s) for granting such variance. Failure to apply for said extension at least fifteen (15) days before the specified submission date, failure to submit a report, and/or willful misrepresentation of any or all of the required information shall result in a violation, and shall be subject to the provisions of ARTICLE XII (Penalties for Offense).
 - b. Such reports must contain but not be limited to the following information based on a reasonable and consistent timeframe predetermined by the Board:
 - i. weight or volume of waste accepted
 - ii. number of vehicles accepted
 - iii. vehicles refused, and for what reason
 - iv. report/documentation of any problems, fines, unusual circumstances, etc.
 - c. A copy of all reports submitted to the DEC in accordance with the provisions of Part 360 shall also be sent to the Board.

ARTICLE V

Permit Application Procedures

1. Existing facilities.

The operator of any facility which is operative as of the effective date of this Local Law shall submit an application for a permit within six (6) months after the effective date of this Local Law. A fully completed and timely application, including without limitation all of the bonds, insurance and indemnity agreements required by Article VII hereof, shall be deemed a temporary operation permit until such application is acted upon. If a submitted application is deemed incomplete by the Town Board, the subject applicant shall be notified of such defect and shall be given reasonable additional period as specified by the Board.

2. Proposed facilities and modification to existing facilities.

Any person who proposes to construct a facility in any zoning district of the Town or who proposes to expand or modify any phase of any existing

facility shall submit a complete application for a siting and construction permit to the Town Board not less than ninety (90) days in advance of the date on which it is proposed to commence such siting or construction, modification or expansion. No such modification or construction shall take place without prior Town Board approval.

3. Any and all facilities, whether existing or proposed, are subject to the provisions of the Zoning Ordinance of the Town of Augusta.

ARTICLE VI

Town Board Action

1. Within sixty (60) days following receipt of a completed application, or such longer period as may be agreed upon in writing by the Town Board and applicant, the Town Board, after a public hearing, shall either approve the application and issue the appropriate permit or disapprove the application. If an application is disapproved, the Town Board shall notify the applicant of such decision and state in writing its reasons therefore.
2. The Town Board may refer the application to the Town Planning Board for study upon receipt of said application and the Planning Board shall report to the Town Board within thirty (30) days of such referral.
3. Compliance of all terms of this Local Law, 6NYCRR Part 360, all relevant sections of the State Environmental Quality Review Act (SEQRA) and all relevant sections of Article 27 Title 7 and 9 of the Environmental Conservation Law and all relevant Town of Augusta Local Laws and Ordinances shall be determining factors in the issuance of a permit.
4. The Town Board shall hold a public hearing concerning the proposal and the hearing shall be scheduled within sixty (60) days of the receipt of a completed application and notice of public hearing in a form prescribed by the Town Board shall be published once in the official newspaper of the Town at least 10 days prior to said public hearing.

ARTICLE VII

Junkyards

1. Junkyards, as defined in ARTICLE I of this Local Law, shall be subject to Article 6, paragraph 136 of the Public Health and Safety section of the General Business Law of New York and SEQRA unless and except where superceded by this Local Law.
2. The Town Board shall have the power to regulate the establishment and operation of new and/or existing junkyards via permit as outlined in the Town of Augusta Zoning Ordinance (#21 of 1973) Articles 6 and 13, and subsequently Sections 5.62, 6.44 as well as any amendments made thereof.
3. Junkyards shall be subject to any and all provisions of Local Law that the Town Board may reasonably deem appropriate for effective regulation of said use.

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ARTICLE VIII

Bonds, Insurance and Indemnity

1. As a condition of the issuance or reissuance of any permit, the applicant shall:
 - a. Provide personal indemnity agreement, agreeing to indemnify and hold harmless the Town of Augusta of and from any and all liability whatsoever arising directly or indirectly from any violation or violations by the operator or operators of any applicable provision or provisions of Article 27 of the Environmental Conservation Law, and from any and all liability whatsoever arising directly or indirectly from any violation or violations by the operator or operators of any of the applicable provisions and applicable regulations of the New York State Department of Environmental Conservation Law; and agreeing to indemnify and hold harmless the Town of Augusta of and from all damages for personal injuries, accidental death and to property in any way arising directly or indirectly from or out of the installation and operation of the facility or facilities authorized or to be authorized by the permit applied for, which indemnify agreement shall be in a form approved by the Town.
 - b. Performance Bond - to provide performance bond in a form and with a carrier satisfactory to the Town, to insure proper compliance with and performance of all of the terms and conditions of the personal indemnity agreement required by paragraph 1 a of this Article VIII.
 - c. Restoration Bond - to insure that all restoration work is completed pursuant to the plan submitted with the application and the dictates of this Local Law and any other Local Law and/or Ordinance.
 - d. Proof of Liability Insurance - public liability and property damage insurance for the duration of the permit to protect the operator and all of his or its subcontractors, employees, agents and servants from all claims for damages for personal injuries, accidental death and to property in any way arising directly or indirectly from or out of the installation and operation of the facility or facilities authorized or to be authorized by the permit applied for. The Town shall be named as one of the insured on all such policies.
2. The terms and conditions of all such bonds and insurance shall be clearly set forth in detail on the permit or attached thereto, including the amounts of such bonds and insurance. All such bonds and insurance shall be with a carrier approved by the Town and in amounts satisfactory to the Town.

ARTICLE IX

Variances

1. The Town Board, upon written application from any person who is subject to the dictates of this Local Law, may, in its discretion, grant a variance from one (1) or more specific provisions of this Local Law provided that such variance does not conflict with or negate the regulatory intent of the applicable provisions of 6 NYCRR Part 360. In the event of a conflict, application shall also be made to the NYSDEC pursuant to Section 360.1 (g) of the abovementioned law, and in such event the decision of the NYSDEC shall control. Variance may be granted pursuant to the above and if the applicant:
 - a. Identifies the specific provisions from which a variance is sought;
 - b. Demonstrates that compliance would, on the basis of conditions unique and peculiar to applicant's particular situation, tend to impose a substantial, financial, technological or safety burden on the applicant or the public; and
 - c. Demonstrates that the proposed activity which is the basis of the requested variance will have no significant adverse impact on the health, safety, welfare and natural resources of the Town of Augusta, or the residents thereof, and will be consistent with the purpose of this Local Law, the provisions of the New York State Environmental Conservation Law, and any rules and regulations promulgated thereunder.
2. In granting a variance, the Town Board may impose specific conditions to insure that the subject activity will have no adverse impact on the health, safety, welfare and natural resources of the Town of Augusta.

ARTICLE X

Reissuance of Permits

1. Any permit holder who intends to continue construction or operations beyond the period of time covered in such original permit must file for reissuance of such permit at least sixty (60) days prior to its expiration. Filing for reissuance shall be made by the permit holder on forms prescribed, by resolution of the Town Board and available from the Town Clerk, or if no such forms are available or 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 applicable.
2. Upon review of a request for reissuance, the Town Board shall determine whether the application is in compliance with or has substantially complied with all terms, conditions and requirements of the expiring permit and of this Local Law when:

- a. The Town Board after a public hearing determines in the affirmative the permit may be reissued. The Town Board shall publish notice of public hearing in a form prescribed by the Town Board once in the official newspaper of the Town at least 10 days prior to said public hearing, and after such public hearing, may determine in the affirmative that the permit may be reissued for a term or period as prescribed by Article IV, subdivision 1 hereof.
- b. The Town Board may determine in the negative, or if other circumstances exist which indicate non-compliance with any provisions of this Local Law or original permit, the Town Board shall take appropriate action to secure compliance, including but not limited to denial of reissuance.

ARTICLE XI

Modification, Suspension and Revocation of Permits

1. Upon a minimum of thirty (30) days 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:
 - a. Violation of any part of this Local Law or the terms of a permit issued pursuant to this Local Law.
 - b. Obtaining a permit by misrepresentation or failure to fully disclose all relevant facts;
 - c. Materially false or inaccurate statements or information in an application for a permit;
 - d. The continuation of such permit would not be in the interest of the safety, health and welfare of the residents of the Town of Augusta.
 - e. Failure to submit the aforementioned reports in the manner outlined in ARTICLE IV Permit Requirements.
 - f. Failure to provide, keep and maintain all bonds, insurance, and indemnity agreements required by Article VIII hereof.
2. The Town Board may revise or modify a schedule of compliance of terms in an issued permit if it determines good cause exists for such revision.

ARTICLE XII

Enforcement and Penalties For Offense

1. That in addition to all other rights and remedies at law or in equity, appropriate to the enforcement of this Local Law, all violations of this Local Law or any regulations or provisions thereof, or of any permit issued hereunder, including, but not limited to, a false statement or

exhibit submitted as part of any application or reapplication to site, construct or operate a facility, or the continuance of the operation of any facility after the lapse or cancellation of any bond, indemnity or insurance required under Article VIII of this Local Law, shall be punishable by a fine not exceeding two hundred fifty (\$250.00) dollars, or imprisonment not exceeding fifteen (15) days, or both. Each and every day that a violation of this Local Law is found to exist shall constitute a distinct and separate offense.

ARTICLE XIII

Facility Inspection

The Town of Augusta shall be empowered to enter and inspect the premises of any facility regulated under this law for the purpose of monitoring compliance with the provisions of this law.

ARTICLE XIV

Severability

1. 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 Law without the invalid provision or application, as the case may be, had such invalidity been apparent.

ARTICLE XV

Effective Date

1. This Local Law shall constitute part of the Code of the Town of Augusta, New York, and shall take effect immediately upon filing in accordance with Section 27 of the Municipal Home Rule Law.