

Solid Waste Disposal and Recycling Ordinance

WHEREAS, the Town has contracts and agreements with regional facilities to process and market recyclables and process and dispose of other wastes; and

WHEREAS, the Town will license waste haulers to collect recyclable and disposable solid waste at the curbside for delivery to designated processing facility; and

WHEREAS, it is necessary to regulate the disposal of waste items to insure the safety and well being of the Town and its citizens and to protect environmental resources including soil, air and water; and

WHEREAS, the citizens of the Town wish to manage solid waste generated within their Town by using a combination of waste reduction, reuse, recycling, composting and waste-to-energy strategies and to encourage all individuals within the Town to become aware of the waste they generate and participate in its management; and

WHEREAS, the cost of managing solid waste is likely to increase significantly and the citizens of the Town feel that these costs are best borne by those who generate waste rather than owners of real estate based on property valuations;

NOW, THEREFORE, Be it ordained by the 2010-11 annual Town Meeting, the following regulations for the disposal and recycling of certain wastes generated in the Town are hereby established:

§1 - IDENTIFICATION AND DEFINITION OF ORDINANCE

§1.1 - Identification. This ordinance shall be known as the TOWN OF NORTH YARMOUTH SOLID WASTE DISPOSAL AND RECYCLING ORDINANCE herein referred to as "the Ordinance."

§1.2 - Purpose. The purpose of the Ordinance is to protect the health, safety and general well being of the citizens of the Town of North Yarmouth, hereafter simply called "the Town", enhance and maintain the quality of the environment and conserve natural resources by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste in the Town in accordance with the provisions of Title 38 M.R.S.A., §1301 et seq. (Maine Hazardous Waste, Septage and Solid Waste Management Act) and Title 30-A M.R.S.A., §3001 et seq. (Ordinance Powers of Municipalities and Counties).

§1.3 - Applicability. This ordinance applies to all domestic, residential, public and private institutional, commercial and industrial generators of solid waste in the Town.

§1.4 - Definitions. Except as provided below, the definitions set forth in Title 38 M.R.S.A. §1303-C as amended (Solid Waste Definitions) apply to the Ordinance and are

incorporated herein by reference. Any word not otherwise defined shall have its ordinary meaning.

- (a) *Acceptable waste* shall mean ordinary household, municipal, institutional, and commercial solid waste including, but not limited to, the following:
- (1) Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, and automobile or small vehicle tires, to the extent that **ecomaine** determines that the air emission criteria and standards applicable to and at the **ecomaine** disposal facility are not violated; and
 - (2) Processible (by ecomaine) portions of commercial solid waste; and
 - (3) Wood and lumber, tree limbs, branches, ties, logs and trees, if no more than four and one-half (4 1/2) feet long and six (6) inches in diameter; leaves; twigs; grass; and plant cuttings; and
 - (4) Residential recyclable materials and commercial recyclable materials.
- (b) *Board* shall mean the Board of Selectpersons.
- (c) *Bulky Waste* shall mean a large item or bundle, other than commercial construction, demolition debris, hazardous waste or white good which can not fit into a container or bag.
- (d) *Commercial recyclable materials* mean that portion of commercial solid waste which consists of recyclable materials.
- (e) *Commercial solid waste* means solid waste generated by a sole proprietorship, partnership, professional association, corporation or other business organization, provided that commercial solid waste shall not include residential solid waste, or solid waste generated by a municipal or quasi-municipal organization or by a state-approved school administration.
- (f) *Construction and demolition debris* shall mean solid waste consisting of one or more of the following materials resulting from construction, remodeling, repair, and demolition of structures:
- (1) Inert fill;
 - (2) Land clearing debris;
 - (3) Asphalt;
 - (4) Masonry;

- (5) Wall board;
 - (6) Pipes; and
 - (7) Metal conduits.
- (g) *Disposal* shall mean the discharge, deposit, dumping or placing of any solid waste into or on any land.
- (h) *ecomaine* shall mean **ecomaine**, a non-capital stock, non-profit corporation created pursuant to Title 30-A, Chapter 115 and Title 13-B, and Title 38, Section 1304-B(5) of the Maine Revised Statutes, or any successor thereto or assignee thereof.
- (i) *ecomaine disposal facility* shall mean any land or structure or combination of land area and structures, including dumps and transfer stations owned or operated by or under a contract with **ecomaine**, and/or any other site designated by **ecomaine** for storing, salvaging, reducing, incinerating, reclaiming or disposing of acceptable waste pursuant to the waste handling agreement and amendments thereto entered into between the Town and **ecomaine**.
- (j) *Hazardous waste* shall mean a waste substance or material in any physical state, designated as hazardous by the terms of the waste handling agreement between the Town and **ecomaine**.
- (k) Licensed commercial hauler shall mean any person firm, partnership, co-operation (including d/b/a's) or public agency who is engaged in the collection and/or transportation of solid waste and /or recyclable materials, and who have received a permit to operate within the boundaries of the Town.
- (l) *Municipal disposal facility* shall mean any land or structure or combination of land area and structures owned or operated by, or under contract with, the Town including a transfer station or similar facility designated by the Town for disposal of acceptable waste.
- (m) *Town* shall mean the Town of North Yarmouth.
- (n) *Person* shall mean any natural person, corporation, partnership, sole proprietorship, professional association or other legal entity.
- (o) *Public solid waste disposal facility* or *disposal facility* shall mean any land or structure or combination of land area and structures, including transfer stations, used for storing, salvaging, reducing, incinerating, reclaiming or disposing of solid wastes; this term shall include the **ecomaine** disposal facility and municipal disposal facility.

- (p) *Recyclable materials* shall mean solid waste which has useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes, including: newspapers; magazines; paperboard; paper products; cardboard; plastics; metal; foil; and glass.
- (q) *Residential recyclable materials* hat portion of residential solid waste which consists of recyclable materials.
- (r) *Residential solid waste* means household waste, residential refuse, or solid waste generated in a residence.
- (s) *Solid waste* shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septage tank sludge nor agricultural or hazardous wastes; it shall include acceptable waste, unacceptable waste and construction and demolition debris as defined herein.
- (t) *Unacceptable waste* shall mean solid waste which is not acceptable waste and includes, but is not limited to, sewage and its derivatives, construction and demolition debris, products containing asbestos, asphalt, light bulbs, junk vehicles, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and hazardous waste, including hazardous chemicals.

§1.5 Designation of Public Solid Waste Disposal Facilities.

§1.5.A Solid Waste Disposal Facility. The Town hereby designates EcoMaine, 64 Blueberry Road, Portland Maine 04102 as its designated Household/ Mean Solid Waste disposal facility.

§1.5.B Recycling Processing Facility. The Town hereby designates EcoMaine Recycling 64 Blueberry Road, Portland, Maine 04102 as its processing facility for recyclable materials which are to be separated under §3.1.B below.

§1.5.C Bulky Waste, Hazardous Waste, Construction/Demo Debris, Metal and White Goods Drop-off Facility. The Town hereby designates the Riverside Recycling Facility, Riverside Street, Portland, Maine and the Town of Freeport Recycling Facility, 100 Hedgehog Mountain Road, Freeport, Maine, as its designated facility for these types of waste.

§2 REGULATION AND ENFORCEMENT

§2.1 Rule Making Powers. The Board of Selectmen shall adopt written solid waste rules and regulations for the collection, processing, recycling and disposal of

acceptable waste at the designated facilities, but only if regulations have not been established by either Ecomaine, Riverside Recycling Facility or Freeport Recycling Center. The Board of Selectmen shall have the authority to establish and collect fees for the licensing of commercial haulers. Fees established hereunder shall be included in the Town of North Yarmouth Application, License and Permit Fees Ordinance.

§2.2 Enforcement Powers. Certain Town Officials, as designated by the Board of Selectmen, and the Town's appointed code Enforcement Officer shall be authorized to enforce the requirements of this ordinance and such Solid Waste Rules and Regulations as are enacted under §2.1 above.

§2.3 Unlawful Dumping Activities.

§2.3.A No Dumping. No person shall permanently dispose of waste or refuse of any kind upon any land within the corporate limits of the Town unless such land has been designated by the Town as a solid waste disposal facility, except that land clearing debris and yard waste may be disposed of on land as permitted by regulations of the Maine Department of Environmental Protection.

§2.3.B No Littering. No person shall throw or deposit or cause to be thrown or deposited any solid waste within the Town in any street, gutter, sidewalk, parking area, park, any other public place, or into or on any body of water within or adjacent to the Town.

§2.3.C No person operating a vehicle shall permit or cause any solid waste to leave such vehicle in violation of §§2.3.A or B above. No person shall transport any solid waste over any public way, street or place within the limits of the Town except when the material is covered in such a manner that the refuse shall not be strewn along public ways. Proof that solid waste has blown from or fallen from any vehicle shall be prima facie evidence that said vehicle was not sufficiently covered.

§2.3.D Enclosed vehicles. Commercial Haulers shall transport solid waste only in completely enclosed vehicles which shall render the waste or refuse material completely enclosed.

§3 COLLECTION AND TRANSPORT

§3.1 Curbside Collection. Any person using curbside collection of residential solid waste or residential recyclables shall dispose of regular municipal solid waste in one of the following methods:

§3.1.A Town provided collection service will be limited to single family dwelling units and apartments containing three or fewer units, home occupations and Town owned facilities. Those eligible for curbside collection services will be required to purchase a bag provided by the Town. The cost of the bag shall be determined by the Board of Selectmen under §2.1 above.

a. Trash bags shall be available in two sizes. The maximum weight shall be limited to no more than forty (40) pounds and the size limited to 33 gallons. Bags exceeding forty pounds will not be picked up.

b. Materials to be disposed of in the bags shall be acceptable waste as defined by the disposal facility §1.5. Individuals using the curbside collection service will be responsible for the trash from their bags that are strewn because of overweight bags, overstuffed bags or animals. As soon as an individual has knowledge of strewn trash, he or she shall collect the strewn trash and place it in bags, either for the scheduled collection or the next collection opportunity.

c. Curbside collection shall occur weekly. Bags will be placed curbside no later than 7:00AM of the morning of collection. Bags shall contain no unacceptable waste and shall be placed at curbside not more than 24 hours before scheduled pick up.

d. No bulky waste, construction debris or demolition debris shall be placed curbside.

e. Commercial haulers may reject materials and/or bags which are not prepared according to specifications.

§3.1.B Curbside Recyclables. Material to be placed at curbside for recycling must be empty, prepared according to current regulations and placed in a container at curbside. Commercial haulers may reject material which is not prepared according to specifications. Recycling containers shall be placed at the curbside by 7:00AM and no earlier than 24 hours before scheduled pick up.

§3.1.C Home Storage. Storage of material prior to disposal or recycling shall be the responsibility of the dwelling owner or the primary occupants.

§3.2 Drop-off Facility. Any person using the drop-off facility as defined in § 1.5C shall deliver or cause to be delivered material during the hours of operation of the facility. Material shall be prepared in the manner prescribed by the rules and regulations adopted under §2.1 and of the designated facility. Waste shall be deposited under the supervision of the drop-off facility attendant. The drop-off facility attendant may reject any material not meeting specifications and require its removal from the site.

§3.2.A Fees. Any person using the drop-off facility may be assessed a fee according to a schedule adopted under §2.1 and of the designated drop-off facility and is responsible for paying this fee to the drop-off facility prior to depositing items at the facility.

§4 FLOW CONTROL

§4.1 Direction of Solid Waste to Designated Facilities. The Town has entered into one or more binding contracts or agreements to deliver all waste to designated facilities.

As authorized by 38 M.R.S.A. §1304-B as amended (Flow Control - Delivery of Solid Wastes to Specific Waste Facilities), the Town hereby controls and directs acceptable solid waste to be delivered only to those facilities designated in §1.5 above. Any person or private hauler who delivers acceptable solid waste to any other facility is in violation of this ordinance.

§5 COMMERCIAL HAULING

§5.1 Licensed Commercial Hauler. Any resident or business not meeting the guidelines of §3.1.A or not wishing to use curbside collection of solid waste or recycling may contract with a Town licensed commercial hauler for the collection, transportation and disposal of solid waste but only at the designated disposal facility as defined in §1.5. The individual or entity contracting for collection and disposal will be responsible for the costs and fees associated with this service.

§5.2 Licensing. Each and every commercial hauler shall secure a license from the Town Clerk in order to operate within the borders of the Town. The license shall be valid from July 1 to June 30 of the following year. In order to obtain a license, an applicant must:

a. obtain the approval of the Board of Selectmen and demonstrate that the applicant encourages and/or requires recycling, reuse and reduction of solid waste over disposal. A licensee may request approval of changes to its pricing structure within 30 days of a Town change of designated facilities under §1.5,

b. provide evidence of general liability insurance coverage at a minimum of \$1,000,000, with the Town listed as an additional insured, with a policy acceptable to the Town. Evidence of insurance (actual copies of the policy) must be presented to the Town prior to the hauler beginning service in the Town.

c. provide evidence of worker's compensation insurance coverage and

d. pay an administrative licensing fee, if so established under §2.1, and whose amount is listed in the Town of North Yarmouth Application, License and Permit Fee Ordinance. Attachment A is the Application Form.

e. upon adoption of this ordinance, commercial haulers shall have 60 days from the date of the ordinance enactment to receive a license from the Town. The first license shall expire June 30th of the year following the ordinance enactment.

§5.2.A Disposal Tipping Fees. Each licensed commercial hauler shall transport solid waste only to a solid waste disposal facility designated by the Town. All tipping and other fees associated with solid waste disposal applicable to Section 5 will be paid by the hauler.

§5.2.B Recycling Tipping Fees. Each licensed commercial hauler shall transport recyclable solid waste only to facilities designated by the Town. No commercial hauler shall deliver recyclable solid waste from generators outside the Town to a Town designated facility and cause the Town to pay a tipping fee.

§6 VIOLATIONS AND PENALTIES

§6.1 General. Violations of this ordinance shall be enforced under the provision of 30-A M.R.S.A. §4452 as amended (Enforcement of land use laws and ordinances) as land use violations. The penalties set forth in the aforementioned statute shall apply to violations of this ordinance. (Currently these penalties include fines of not less than \$100 nor more than \$2,500 for each day of a violation.)

§6.2 Town Costs of Enforcement. In addition to the foregoing penalty provisions, any person or business violating any provision of this ordinance shall be liable to reimburse the Town for costs of enforcement including reasonable attorney fees and court costs. This provision shall not preclude the Town for seeking and obtaining equitable relief.

§6.3 Suspension of Licenses. In addition to the foregoing penalty provisions, any commercial hauler who violates any provision of this ordinance may be punished by the revocation of his/her license to operate in the Town for up to two years and the forfeiture of all license and permit fees. The Board of Selectpersons may revoke a license after notifying an operator of a violation and conducting a hearing on the matter.

§6.4 Costs of Disposal. In the case of illegal dumping upon private or public land, the costs of clean up and disposal shall be borne by the person so dumping, unless no person is so charged. The Town may pay the tipping fee for disposal of illegally dumped material if the land owner reports the violation to the Cumberland County Sheriff or Code Enforcement Officer and the person or persons responsible for the act cannot be determined.

§7 STIPULATIONS

§7.1 Severability. If any provisions of this ordinance or the application thereof are held invalid by any court of law, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provisions or applications, and to this end, the provisions of the ordinance are declared to be severable.

§7.2 Repeal. All existing ordinances and/or parts of existing ordinances inconsistent with this ordinance are hereby repealed.

ADOPTED: June 12, 2010

Attachment A- Licensed Commercial Hauler Application