

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(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.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

JUL 16 2009

County

City

Town

Village

of Farmersville

MISCELLANEOUS
& STATE RECORDS

Local Law No. 1 of the year 2009.

A local law Banning landfills within the Town of Farmersville and repealing
(insert Title)

Local Laws 1-1991, 1-1994, 1-2000, 3-2000, and Local Ordinance

1-1953, this law is also known as the "Waste Management Facility

Law of the Town of Farmersville

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

County

City

Town

Village

of Farmersville

as follows:

Please see attached pages 4-9

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that 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 20.09
of the (County)(City)(Town)(Village) of Farmersville
Town Board on June 15 2009, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____
of the (County)(City)(Town)(Village) of _____ was duly passed by the
(Name of Legislative Body) on _____ 20___, and was (approved)(not approved)(repassed after
disapproval) by the _____ and was deemed duly adopted on _____ 20____,
(Elective Chief Executive Officer*)
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 20____
of the (County)(City)(Town)(Village) of _____ was duly passed by the
(Name of Legislative Body) on _____ 20____, and was (approved)(not approved)(repassed after
disapproval) by the _____ on _____ 20____. Such local law was submitted
(Elective Chief Executive Officer*)
to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of
the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in
accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____
of the (County)(City)(Town)(Village) of _____ was duly passed by the
(Name of Legislative Body) on _____ 20____, and was (approved)(not approved)(repassed after
disapproval) by the _____ on _____ 20____. Such local law was subject to
(Elective Chief Executive Officer*)
permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, 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 chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the 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 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (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 _____ 20____, 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 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, 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 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 paragraph ⁴_____, above.

Susan Holmes Town Clerk

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

Susan Holmes,
Town Clerk

(Seal)

Date: June 15, 2009

(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 Cattaraugus

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.

James J. McQuill

Signature

Town Attorney

Title

County _____
City _____ of Farmersville
Town _____
Village _____

Date: Farmersville 6-15-09

**TOWN OF FARMERSVILLE
WASTE MANAGEMENT FACILITIES LAW**

<u>Section I.</u>	<u>Title</u>
<u>Section II.</u>	<u>Findings</u>
<u>Section III.</u>	<u>Purpose</u>
<u>Section IV.</u>	<u>Applicability</u>
<u>Section V.</u>	<u>Definitions</u>
<u>Section VI.</u>	<u>Exemptions</u>
<u>Section VII.</u>	<u>Coordination With State Law</u>
<u>Section VIII.</u>	<u>Prohibitions</u>
<u>Section IX.</u>	<u>Penalties For Offenses; Enforcement</u>
<u>Section X.</u>	<u>Repealer; Effect on Other Laws</u>
<u>Section XI.</u>	<u>Severability</u>
<u>Section XII.</u>	<u>Effective Date</u>

Be it enacted by the Town of Farmersville as follows:

Section 1. **Title**

This local law shall be known as and may be cited as the "Waste Management Facilities Law of the Town of Farmersville."

Section II. **Findings**

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

1. The inability of geological science to precisely ascertain the existence and flow of ground waters 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 supplies.
2. 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.
3. The Town's need for solid and liquid waste disposal are being met.
4. 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.
5. 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 within the town.
6. Substantial scientific opinion questions the environmental and health effects of both "resource recovery" facilities, and the containment methods for liquid waste.
7. Solid and liquid waste regulation under New York Environmental Conservation Law (ECL) is inadequate to relieve the forgoing concerns.

Section III. Purpose

The town intends by this Local Law to:

1. Restrict the operation of solid waste management facilities within the Town of Farmersville in order to promote a clean, wholesome and attractive environment for the community.
2. Ensure that accurate, current information about currently exempted solid waste disposal operations within the town is available to public officials and citizens.
3. Protect the residents of the town from undesirable effects of solid waste disposal operation including:
 - a) unaesthetic results, including odors, blowing litters, increased traffic, dust, and noise, and;
 - b) deterioration in property values associated with an 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, surface water or groundwaters.
4. 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 its citizens and to restrict waste disposal operations within the town that might otherwise be permitted under the ECL. Sections 27-0711 of the ECL specifically recognizes and authorizes the right and authority of a Town to legislate stricter controls on solid waste management operation than state law requires.

Section IV. Applicability

This Local Law shall apply to all territory within the confines of the Town of Farmersville.

Section V. Definitions

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

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

ASH or 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 and the solid residue of any air pollution control device used in a solid waste incinerator.

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

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

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

CONSTRUCTION and DEMOLITION DEBRIS- uncontaminated, inert solid waste resulting from the construction, remodeling, repair and demolitions of structures, and from road building and land clearing. Such waste includes, but is not limited to bricks, concrete, and other masonry materials, soil, rock, 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 of any of the above.

CONTAINMENT POND or POOL- any basin, tank, pond or pool for the disposal, storage, retention, procession treatment or other handling of liquid waste.

DEC- the New York State Department of Environmental Conservation.

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

FACILITY- any solid waste management facility.

HAZARDOUS WASTE- waste meeting the definition set forth in 6 NYCRR, Part 371.

HOUSEHOLD WASTE- liquid or solid waste from residential sources.

INDUSTRIAL WASTE- any liquid, gaseous, solid or waste substance or combination thereof resulting from any process of industry, manufacturing, trade or business. it shall include, but not be limited to, pesticides, lime, acids, chemicals, petroleum products, tar, and dye-stuffs.

LANDFILL or SANITARY LANDFILL- any disposal area for solid wastes in or upon the ground.

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

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.

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.

SEWAGE- the water carrying hum or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present.

SOLID or LIQUID 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 liquids, garbage refuse, industrial, commercial and household waste, sludge 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 useable 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 or barge-haul facilities; procession facilities; landfills; ashfills; disposal facilities; solid waste incinerators; resource recovery facilities; recycling facilities; and waste tire storage facilities, containment ponds or pools, sewage treatment plants and storage tanks or containers, or any other facility of any kind designated a solid waste management facility by the DEC.

SOLID WASTE INCINERATOR- an incinerator at which household waste and non-hazardous industrial/commercial waste are combusted for energy.

SOUND AGRICULTURAL PRACTICES- refers to those practices necessary for the on-farm production, preparation and marketing of agricultural commodities.

SECTION VI. EXEMPTIONS

A. The following are not subject to this Local Law:

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 non-putrescible, 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. Any sewage treatment facility but not including any sewage sludge spreading facility.
4. Any bonafide solid waste management facility previously in existence on the effective date of this Local Law shall remain exempt under the current terms and conditions of their operating permit.

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.

Section VII. COORDINATION WITH STATE LAW

- A. All relevant sections of Article 27 of the ECL and 6 NYCRR, parts 360-364 and 617, 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 being consistent with state law, except that the more stringent requirements of this Local Law shall apply.

SECTION VIII PROHIBITIONS

- A. No solid waste management facility shall hereafter be constructed, allowed to commence operation or to continue operation within the Town of Farmersville.

SECTION IX. PENALTIES FOR OFFENSES: ENFORCEMENT

- A. All violations of this Local Law or any of its regulations or provisions, shall be deemed Class A misdemeanors, punishable by a fine not exceeding five thousand (\$5,000.00) dollars or imprisonment not exceeding one (1) year, or both. Each and every day that a violation of this Local Law is permitted to exist shall constitute a separate offense.
- B. Any violation of this Local Law or regulations or provisions thereof shall create a liability to the people of the town for civil penalty not to exceed five thousand (\$5,000.00) dollars, to be after a hearing of 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 local law occurs or continues shall constitute a separate violation for purposes of civil liability.

C. Upon any violations of this Local Law 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 Local Law 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.

SECTION X. REPEALER: EFFECT ON OTHER LAWS

All other ordinances and local laws or parts thereof in conflict herewith are superseded by this Local Law; provided, however, that the provisions of the Law shall not be interpreted as obviating any requirements or restrictions wherever it is possible to conform to the provisions of both this law and any other law or ordinance, specifically Local Laws 1-1991, Local Law 1-1994, Local Law 1-2000 and Local Law 3-2000, and Local Ordinance 1-1953 are repealed.

SECTION XII SEVERABILITY

If any part of the 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.

SECTION XIII EFFECTIVE DATE

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