

Adopted 5/87

Section I - Title: Solid Waste Flow Control Ordinance

This Ordinance shall be known as the Town of North Berwick, Maine, Solid Waste Flow Control Ordinance.

Section II - Enabling Legislation

This Ordinance is enacted pursuant to the authority granted in 30 M.R.S.A. §§1917, 2151, 2153, 4101 to 4102 and 38 M.R.S.A. §1304-8.

Section III - Purpose

The municipality has a statutory obligation to provide a solid waste disposal facility for domestic and commercial waste generated within the municipality and is authorized to provide such a facility for industrial waste and sewage treatment plant sludge, pursuant to 38 M.R.S.A. §1305, sub§1. Municipal solid waste contains valuable recoverable resources including energy, which if recovered reduce the cost of solid waste disposal. Because energy recovery technology is complex, most energy recovery facilities have high capital costs and long payback periods. To remain cost effective and operate efficiently during their useful lives, energy recovery facilities require a guaranteed steady supply of waste during their entire useful life.

Consequently, a municipality that wants to utilize an energy recovery facility for processing municipal solid wastes, generally must agree to provide the facility with a steady supply of solid waste for a relatively long period.

The municipality must exercise its legal authority to control the collection, transportation and disposal of solid waste generated within its borders to ensure delivery of a steady supply of waste to the energy recovery facility designated herein.

Section IV - Definitions

All terms not specifically defined herein shall have their ordinary meaning; words used in the present tense include the future and the plural includes the singular.

Acceptable Waste: all solid wastes of the type presently accepted at the landfill used by the municipality, including all ordinary household, municipal, institutional, commercial and industrial wastes with the following exceptions:

- 1) demolition or construction debris from building and roadway projects

- or locations;
- 2) liquid wastes or sludges;
 - 3) abandoned or junk vehicles;
 - 4) hazardous waste, that is waste with inherent properties that make it dangerous to manage by ordinary means, including but not limited to, chemicals, explosives, pathological wastes, radioactive wastes, toxic wastes and other wastes defined as hazardous by the State of Maine or the Resource Conservation and Recovery Act of 1976, as amended, or other federal, state or local laws, regulations, orders or other actions promulgated or taken with respect thereto.
 - 5) dead animals or portions thereof or other pathological wastes;
 - 6) water treatment residues;
 - 7) tree stumps;
 - 8) tannery sludge;
 - 9) waste oil; and
 - 10) discarded "white goods" including, but not limited to, freezers, stoves, refrigerators and washing machines.
- Disposal Facility: the facility(ies) designated by the municipality as the storage and/or disposal site(s) for Unacceptable Wastes.

Collection Facility: A building or container or designated area in which acceptable waste is deposited and temporarily stored for trans-shipment to the Energy Recovery Facility.

Disposal Facility: the facility(ies) designated by the municipality as the storage and/or disposal sites(s) for Unacceptable Waste.

Energy Recovery Facility: the facility designated herein which processes and recovers energy and/or useful materials from Acceptable Waste generated in the municipality.

Municipality: The Town of North Berwick, Maine.

Unacceptable Waste: All solid waste of the type municipalities are required to regulate by 38 M.R.S.A. §1305, as amended, which specifically excludes industrial and sewage treatment plant sludge, and not included in the definition of Acceptable Waste.

Section V – Designation

In accordance with the provisions of 38 M.R.S.A. §1304-B, the municipality hereby designates the Maine Energy Recovery Company facility located in Biddeford, Maine as its Energy Recovery Facility for the purposes cited in

Section I of this ordinance.

Section VI – Regulated Activity

The accumulation, collection, transportation and disposal of Acceptable Waste and Unacceptable Waste generated within the Municipality shall be regulated in the following manner:

- 6.1 All Acceptable Waste generated within the municipality, shall be deposited at a Collection Facility or directly at the Energy Recovery Facility.
- 6.2 All Unacceptable Waste generated within the municipality, shall be deposited at a Disposal Facility.

Section VII – Exempted Waste

The following categories of waste shall be exempted from regulation by this ordinance:

- 7.1 Materials from manufacturing, processing or packaging operations which are segregated from solid waste and salvaged for alternate use or reuse by the generator or sold to third parties.
- 7.2 Glass, metal or other noncombustible materials which are separated from Acceptable Waste by the generator as part of a recycling program approved by municipal officers.
- 7.3 Cardboard, paper or other combustible materials which are separated from Acceptable Waste by the generator as part of a recycling program approved by the municipal officers, provided that any such recycling program shall not reduce the BTU content of Acceptable Waste below the BTU level acceptable to the Energy Recovery Facility.

Section VIII – Administration

This ordinance shall be administered by the Municipal Officers. Their powers and duties are as follows:

- 8.1 To adopt reasonable rules and regulations as needed to enforce this ordinance.
- 8.2 To consider all license applications and to grant or deny each application within 15 days after receipt of a completed application at the municipal offices or within such other time as the municipal officers and the applicant shall agree is reasonable.
- 8.3 To review any alleged violation of this ordinance, and to impose

appropriate penalties therefor after notice and hearing as required by this ordinance.

8.4 To institute necessary proceedings, either legal or equitable, to enforce this ordinance.

Section IX -Licensing

9.1 No person, firm or corporation shall accumulate, collect, store, transport or dispose of Acceptable Waste or Unacceptable Waste generated within the Municipality without obtaining a license from the Municipal Officers, except that a person, firm or corporation that accumulates, collects, stores, transports or disposes of less than 1/2 tons per month of its own waste shall not be required by this section to obtain such a license.

9.2 Any person, firm or corporation required by this Ordinance to obtain a license shall make application to the Municipal Officers, providing the formation required. Each application shall be accompanied by a non refundable application fee of \$25.00.

9.3 The application shall contain all information required by the Municipal Officers, including but not limited to a description of the activity(ies) engaged in, e.g., collection, transportation or disposal of Acceptable and/or Unacceptable Waste; type and amount of waste handled in each service area; the description of the facility(ies) operated and used; and an equipment inventory, including for vehicles a description with the make, model and year of each vehicle used for the collection or transportation of solid waste. All information provided shall be revised annually upon application for license renewal. If the Municipal Officers determine that the application is incomplete, they shall notify the applicant in writing of the specific information necessary to complete it. The Municipal Officers shall be informed immediately, in writing of any changes in or additions to equipment, including vehicles.

9.4 Licenses shall not be transferable. In the event of an emergency or vehicle breakdown, a licensee shall be issued a special license for a satisfactory replacement vehicle upon furnishing of all information required for a licensed vehicle.

9.5 All licenses shall expire one (1) year from the date of issue unless otherwise stated on the license or revoked or suspended sooner in accordance with the provisions of this ordinance.

- 9.6 The annual license fee shall be \$25.00 per vehicle under one (1) ton G.V.W. and \$100. per vehicle over one (1) ton G.V.W.
- 9.7 In the event the Municipal Officers deny a license application, they shall notify the applicant in writing and shall state the reasons for the denial. The applicant may request a public hearing in accordance with the procedures in Section XI.

Section X - Suspension or Revocation

Any license issued may be suspended or revoked by order of the Municipal Officers after benefit of a hearing in accordance with the procedures in Section XI, for the following causes:

- 10.1 Violation of this ordinance.
- 10.2 Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this ordinance.
- 10.3 Violation of any license condition(s).
- 10.4 Falsehoods, misrepresentations or omissions in the license application.

Section XI - Hearings

- 11.1 Anyone denied a license or whose licensee is suspended or revoked pursuant to section X shall be entitled to a hearing before the Municipal Officers, if such request is made in writing within 15 days of the denial, suspension or revocation.
- 11.2 Such hearings shall be held within thirty (30) days after receipt of the written request for a hearing.
- 11.3 The licensee or applicant shall be notified, in writing, as to the time and place of the hearing at least ten (10) days prior to the hearing date. The applicant or licensee has the right to be represented by counsel, to offer evidence and to cross-examine witnesses.
- 11.4 A determination shall be made by the Municipal Officers within ten (10) days after the conclusion of the hearing, and notice of the decision shall be served upon the applicant or licensee by registered mail, return receipt requested.
- 11.5 The Municipal Officers' final determination relative to the denial or suspension or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice but no later than ten (10) days after the date notice of such final determination has been mailed by registered mail, return receipt requested, to the applicant

and shall be conclusive. Notice of the final determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof together with a statement that such decision may be appealed as provided in this ordinance.

- 11.6 Any controversy or claim arising out of or relating to the Municipal Officers' determination shall be directly reviewable by Superior Court pursuant to M.R.Civ.P., Rule 80B.

Section XII – Enforcement

- 12.1 All provisions of this ordinance are enforceable by duly authorized police officers and the Municipal Officers.
- 12.2 Any person who violates any provision of this ordinance is subject to arrest and if convicted, to punishment as provided in Section XIII.
- 12.3 Whenever the Municipal Officers determine that there has been a violation by virtue of noncompliance, they shall give notice of such violation to the person(s) responsible by personal service or by registered mail, return receipt requested.
- (A) The citation shall include a statement of reasons and shall allow reasonable time for performance of any act it requires.
 - (B) The citation may contain an outline of remedial action which, if taken, will effect compliance.
 - (C) The citation shall state that unless corrections are made within the allotted time, the violator is subject to prosecution and/or license revocation or suspension pursuant to the provisions of this ordinance.

Section XIII – Penalties

- 13.1 Criminal penalties: any person who violates this ordinance shall be guilty of a Class E crime for each violation.
- 13.2 Civil penalties: any person, firm or corporation who violates this ordinance shall be subject to a civil penalty, payable to the municipality, of not more than \$500 for the first violation and not more than \$1000 for each additional violation. Each day of violation shall be considered a separate violation. Such person, firm or corporation shall also be liable for court costs and reasonable attorney fees incurred by the Municipality.

Section XIV – Variances

The Municipal Officers may, on written application, grant a variance from a specific provision of this ordinance in a specific case subject to appropriate conditions where such variance is in harmony with the general purpose and intent of this ordinance and the Agreement between the Municipality and the Energy Recovery Facility.

Section XV – Conflict and Severability

15.1 The provisions of this law shall supersede all other local laws, ordinances, resolutions, rules or regulations contrary thereto, or in conflict therewith.

15.2 The provisions of this ordinance shall be severable and if any phrase, clause, sentence or provisions, or the application thereof to any person or circumstance shall be held invalid, the remainder of this ordinance and the application thereof shall not be affected thereby.

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Section XVI – Amendment

This ordinance may be amended in the same manner as any other ordinance of the Municipality, subject to the contractual obligations outlined in the contract between the Municipality and the Energy Recovery Facility.

Section XVII – Effective Date

This ordinance shall become effective upon adoption except that provisions dependent upon the Energy Recovery Facility designated herein shall become effective on the date that the Energy Recovery Facility begins commercial operations, provided the municipality provides notice of commencement in the manner required for publication of ordinances. Any person, firm or corporation required to obtain a license hereunder shall have sixty (60) days

from the date of adoption of this ordinance to secure such license, which shall become effective on the date specified therein.