

LOCAL LAW # _____ – Town of Thurston, County of Steuben
Filed with the State of New York this _____ of _____, 2023

TOWN OF THURSTON

COUNTY OF STEUBEN

LOCAL LAW # 1 OF THE YEAR 2023

**A local law – TOWN OF THURSTON REGULATIONS TO REGULATE, CONTROL
OR LICENSE DUMPS AND LANDFILLS.**

Be it enacted by the TOWN BOARD of the TOWN OF THURSTON as follows:

Section 1: Legislative Intent.

- (a) By adoption of this Law, the Town Board of the Town of Thurston declares its intent to regulate, control or license activities known as “dumps”, “landfills”, “sewage waste disposal areas”, “hazardous sites” or any other areas where the activity of storing or processing of used materials for resale or disposal or handling thereof is being conducted.
- (b) Said Town Board hereby declares that such activities may constitute a nuisance or can be a hazard to property, the environment, individuals and the general public. The Town Board wishes to safeguard its residents against unwarranted dumping or storage and hereby declares that a clean, wholesome, attractive environment is important to the health and safety of its inhabitants.
- (c) Said Town Board declares its intent not to permit refuse to be stored in the Town without a dump permit except upon the property at which such waste is produced or generated.
- (d) This Law shall neither prohibit nor restrict the spreading of manure generated in the Town of Thurston as part of a normal farm operation practice on land owned or leased by said operation.

Section 2: Definitions.

As used in this Law, the following terms shall have the meanings indicated:

DUMP AND/OR LANDFILL – Includes any lot, land, parcel, building, structure or part thereof for a place of storage or deposit of refuse by any person or persons, corporation, partnership or other legal entity, whether in connection with any business or not, where items of refuse are held whether for the purpose of resale of some or all of the materials therein;

ENFORCEMENT OFFICER – The person(s) designated by the Town Board to enforce the provisions of this Law;

REFUSE:

A. SOLID WASTE.

- 1) Commercial solid waste generated by stores, offices and other activities that do not actually turn out a product;
- 2) Industrial solid waste resulting from industrial process and manufacturing;
- 3) Institutional solid waste originating from educational, health care or research facilities;
- 4) Municipal solid waste comprising of residential and commercial wastes;
- 5) Residential solid waste, including waste which normally originates in a residential environment, also known as "domestic solid waste";
- 6) Construction solid waste from demolition debris.
- 7) Medical solid waste from hospitals, medical research facilities, adult and health care centers, nursing homes and other sources;
- 8) Low level waste from nuclear facilities, research centers and other sources which may be the source of such materials;
- 9) Sewage waste disposal;
- 10) Any other hazardous materials.

B. LIQUID WASTE – Water from homes, businesses or industries that is a mixture of water and dissolved or suspended solids and any other hazardous fluids;

C. Any old or discarded materials or objects of any kind not useable are "refuse". Examples being building materials, trailers of any kind (including mobile homes and travel trailers), vehicles, machinery, appliances, furniture, old rubber, old batteries or other waste or discarded materials or materials dangerous to the health or safety, regardless of their kind, form, material, shape or nature;

TOWN – The Town of Thurston, Steuben County, State of New York.

Section 3: Violations and Penalties.

- A. It shall be a violation to permit "refuse" to be stored, accumulated, deposited, abandoned or recycled in the Town of Thurston without a valid dump permit, except on property on which such refuse is produced or generated. Violation of this section of this Law shall be punishable by a civil penalty not to exceed the sum of \$1,000.00 per day per violation for each day of each violation.

- B. It shall be unlawful to leave refuse anywhere in the Town of Thurston other than at a dump, if one exists, in accordance with a valid permit. Any violation of this section of this Law shall be punishable by a fine not to exceed the sum of \$500.00 per act.
- C. In the event that a civil penalty under this Law remains unpaid for a period in excess of 30 days, such civil penalty and in addition the sum of ½ of such unpaid civil penalty may be enforced by an action on behalf of the Town of Thurston in any Court of competent jurisdiction.
- D. In addition to the above penalties, the Town may also maintain an action or proceeding in the name of the Town in any Court of competent jurisdiction to compel compliance with this chapter or to restrain by injunction the removal of the same from the premises upon which such refuse or dump is situate. All costs associated with such action or proceeding as well as the removal shall be assessed to the party(ies) found to be in violation of this Law.

Section 4: Enforcement.

The Town Board of the Town of Thurston shall have the power to enforce the provisions of this Law and for that purpose shall have the right and is hereby empowered to obtain a warrant to enter upon any premises upon which refuse is stored or a dump is operating in the Town, or upon which the Town Board has reasonable cause to believe a dump is about to be located, and inspect the same at any time.

Section 5: Dump Permits.

- A. No person, corporation, partnership or other legal entity shall engage in or conduct, whether or not for profit or otherwise, on real property within the Town of Thurston, indoors or outdoors, either for herself, himself or themselves or for and/or on behalf of any other person(s), corporation(s), partnership(s) or other legal entities, directly or indirectly, as agent, employee or otherwise, any operation which involves collection, storage, burning, dumping, disassembling, salvaging, sorting or otherwise processing, handling or arranging for sale, resale, storage, disposal or otherwise of refuse, without first obtaining a dump permit as hereinafter provided. A separate permit shall be required for each location.
- B. No person, corporation, partnership or other legal entity shall collect, store, burn, dump, process, disassemble, dismantle, salvage, sort or otherwise handle or arrange outdoors, for sale, resale, storage, disposal or otherwise, deal in any manner with refuse as provided in this section, whether as dealer or otherwise, in the Town of Thurston, without first having obtained a permit as hereinafter provided.
- C. Consistent with State and Federal Law and State and Federal Administrative Rules and Regulations, the Town Board may grant general permits to allow certain specific acts or actions otherwise prohibited by this Law. For example, a general permit could

allow the outdoor burning of domestic paper products or the burning of fallow fields or slash from hedgerows.

Section 6: Applications and Procedures for Dump.

- A. Applications for a dump permit shall be filed with the Town Clerk of the Town of Thurston upon such forms as are promulgated therefore by the Town Board. The necessary fee(s) shall accompany the application.
- B. Upon receipt of a completed application, the Town Clerk shall submit a copy of said application to the Town Board at its next regular meeting for their review and processing in accordance with this Law.
- C. Upon receipt of a completed application for a proposed dump, the Town Board shall determine the level of review needed under 6 NYCRR Part 617 of the New York State Environment Quality Review Act (SEQR). Upon completion of the SEQR evaluation the Town Board shall conduct a site plan review within 45 days. As part of this site plan review, the Town Board may make a reasonable request of an applicant to produce the following:
- 1) Large scale topography professional drawing(s) of the proposed dump site;
 - 2) A small scale drawing of the general areas around the site;
 - 3) Location of existing features including structures, within 500 feet of the site, public roadways, rights-of-way, watercourses, water bodies, public and private water supplies, wetlands, flood hazard areas and other significant existing features, natural or man-made, that may influence the proposed dumping site, and/or
 - 4) Such other information as the SEQR review suggests being relevant to the site.
- D. Within 45 days of the site plan information and comments from the Town Board, the Town Board shall hold a public hearing on the application. Notice of the public hearing shall be published in the official local newspaper and on the Town website and shall not be less than seven days before the date of the hearing.
- E. The Town Board shall hear the applicant and all other persons wishing to be heard at the public hearing on the application for a permit to establish, operate and maintain a dump. Upon considering the application, the public comments and the ability of the applicant to comply with the requirements of this Law and other applicable Federal, State and Local Laws, Rules and Regulations, the Town Board, following the criteria set below, shall either approve, disapprove or approve with conditions said

application. The Town Board's decision shall be duly recorded by the Town Clerk in the official minutes of the meeting and the applicant notified in writing by the Town Attorney of the Town Board's decision. The Town Board shall render its decision and reasons for its decision within 45 days of the public hearing.

- F. When reviewing an application for a permit, the Town Board shall take into consideration the nature and use of surrounding property, including the proximity of churches, schools, hospitals, farms and public places (such as historical sites, parks, public buildings and other places of public gathering) and whether or not the proposed location can be reasonably protected from adversely affecting the public health and safety by reason of offensive or unhealthy odors, smoke, air or water pollution and other causes. Also, the Town Board shall take into account the Town's desire to maintain a clean and wholesome environment to protect the public health, safety and general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an effect or impact contrary to the best public interest. In this connection the Town Board may consider collectively the type of road servicing the dump or from which the same can be seen, the natural or artificial barriers, such as fencing, protecting the site from view, the proximity of the proposed dump to established or potential residential and recreational areas, of access routes thereto, as well as the reasonable availability to other suitable sites for a dump.
- G. If approved, a permit shall remain in effect until June 30. Any new permit issued on or after April 1 of any year shall continue in force to June 30 of the following year, and the fee for the remainder of the year in which such permit is issued shall be prorated for that year.
- H. All permits shall be placed, and at all times displayed, in a conspicuous place at the permittee's place of activity or business.

Section 7 – Renewal Fees, Relocation and Grace Period.

- A. Applications to renew permits shall be filed on or before April 30 of each year on forms adopted by the Town Board and available from the Town Clerk. The renewal shall accompany the application. The Enforcement Officer shall ascertain that the permittee is operating said dump in accordance with all the terms and conditions of the original permit by inspection of the dump site and then will make a report of such to the Town Board. Operation consistent with said terms and conditions shall entitle the holder to permit renewal. Any substantial, important modification, expansion or enlargement or changes in the refuse stored and deposited therein shall be cause for rejection of the permit renewal.

- B. Fees shall be set by the Town Board. A schedule of the fees shall be set following the adoption of this Law and annually thereafter.
- C. A dump permit may be revoked for failure to comply with the terms and conditions of the permit upon written notice (by United States mail – certified letter or personally given to the permittee or their business by a process server). The permittee shall have forty-five (45) days upon receipt of written notice to have an opportunity to be heard, give witnesses and cross examinations to conditions that are causing the violation. In revoking said permit, the Town Board shall make factual findings and establish which term(s) or condition(s) of the permit were not followed. Written notice to permittee shall follow:
- D. Any person(s), corporation, partnership or other legal entity operating an unlicensed dump as herein defined in the Town of Thurston upon the effective date of this Law, shall have sixty (60) days from the effective date to complete an application under this chapter or shall be given sixty (60) days from the effective date to remedy any and all violations of this Law. No proceedings shall be brought to enforce this Law against said person(s), corporation, partnership or other legal entity during the consideration of their application or when acting in good faith to comply with this Law.

Section 8 – Effectiveness.

This Law shall take effect upon the date it is filed in the Office of the Secretary of the State of New York.

Town Board:

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