

**TOWN OF ELLINGTON LOCAL LAW NO. 2  
OF THE YEAR 2020**

**A LOCAL LAW KNOWN AS THE WASTE  
MANAGEMENT FACILITIES LAW  
OF THE  
TOWN OF ELLINGTON**

**BE IT ENACTED BY THE TOWN BOARD  
OF THE TOWN OF ELLINGTON  
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 Ellington."

**Section 2.           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 groundwaters 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 effect of both "resource recovery" facilities that incinerate or burn solid waste and of the handling and disposal of ash residue from such 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 foregoing concerns.

**Section 3.                    PURPOSE**

A.        The Town intends by this Local Law to:

1. Restrict the operation of solid waste management facilities within the Town of Ellington in order to promote a clean, wholesome and attractive environment.
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 litter, 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 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

the Town to legislate stricter controls on solid waste management operation than state law requires.

**Section 4.            APPLICABILITY**

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

**Section 5.            DEFINITIONS**

- A. Unless defined below or the context otherwise requires, the terms and words used in this 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 word shall be defined as follows:

**6 NYCRR** – 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 table, 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 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 to any of the above.

**CONTAMINATED 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 6NYCRR 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 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 or avian excreta without 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 human or animal wastes from residences, building, 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, sludges 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 6.            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, non-hazardous 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 bona-fide 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 7.                    COORDINATION WITH STATE LAW**

- A. All relevant sections of Article 27 of the ECL and 6NYCRR, 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 8.                    PROHIBITIONS**

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

**Section 9.                    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) 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) dollars, to be after a hearing or 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 violation 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 was is disposed of in violation of this Local Law be restored as nearly as possible to its form 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 10.                    REPEALER; EFFECT ON OTHER LAWS**

All other ordinance 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.

**Section 11.                    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 12.                    EFFECTIVE DATE**

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