

Chapter 97: SOLID WASTE

[HISTORY: Adopted by the Town Board of the Town of Bethlehem 6-19-1990 by L.L. No. 4-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Garbage, rubbish and refuse — See Ch. 76.

Chapter 97: SOLID WASTE

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§ 97-1_Definitions.

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

GARBAGE

Any refuse from animal and vegetable matter and foodstuff after it has been used as food; refuse from kitchens, markets, houses or stores; floor sweepings; table wastes or animal or vegetable matter; vegetables; meats; fish; bones; and all offal and organic waste substance.

PERSON

One or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies, clubs, fraternal orders and all other entities of any kind capable of being sued.

RUBBISH

Combustible trash, including but not limited to paper, cartons, boxes, barrels, wood, tree branches, stumps, yard trimmings, wood furniture and bedding; noncombustible trash, including but not limited to metal, tin cans, metal furniture, small quantities of rock and pieces of concrete, glass, crockery and other metal fixtures; and street rubbish, including but not limited to street sweepings, leaves and catch basin dirt.

SOLID WASTE

All putrescible and nonputrescible 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 garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal. The term shall not include domestic sewage and other highly diluted water-carried materials or substance and those in gaseous form or such other items or materials excluded from the definition of "solid waste" pursuant to the regulations of the State of New York, Department of Environmental Conservation.

WASTE EXCAVATION MATERIAL

Includes earth, sand, dirt and soil but shall not include construction and demolition debris as that term is defined in § 97-10 of this chapter.

§ 97-2 Use of public dump required.

No land within the Town of Bethlehem shall be used for the discharge, disposal, deposit or burial of rubbish, garbage or solid wastes, as defined in this chapter, unless operated as a public dump by or on behalf of the Town of Bethlehem or operated pursuant to a permit issued for said purpose by the Town of Bethlehem and operated in accordance with all applicable laws, rules and regulations of the State of New York, County of Albany and Town of Bethlehem.

§ 97-2.1 Waste excavation material.

[Amended 11-14-2007 by L.L. No. 7-2007]

Waste excavation material of any kind shall not be discharged, disposed of, deposited or buried within the Town of Bethlehem unless said material is clean and uncontaminated by any hazardous or toxic substance and does not include solid waste or construction and demolition materials or debris. The discharge, disposal, depositing or burial of such waste excavation material within the Town shall require a permit and be performed in accordance with Chapter 98 of the Code of the Town of Bethlehem.

§ 97-3 Prohibited disposal.

No person shall throw, bury, deposit, discharge or cause to be thrown or deposited any garbage, rubbish, waste excavation material or solid waste in, upon or under any land, including any public highway, in the Town of Bethlehem other than at a public dump or dumping ground established, permitted and operated pursuant to this chapter.

§ 97-4 Authority for establishment of public dumps or dumping grounds.

This article shall not prohibit the establishment or operation by the Town Board of public dumps or dumping grounds as the necessity therefor may arise, nor shall it prohibit the Town of Bethlehem from authorizing, for good cause shown, the discharge, disposal, deposit or burial of waste excavation material at a particular site located within the Town.

§ 97-5 Penalties for offenses.

A.
The Town Building Inspector shall be responsible for the enforcement of this article and all rules and regulations issued thereunder. A violation of this article is hereby declared to be an offense punishable by a fine not exceeding \$350 or by imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction of a third or subsequent

offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or by imprisonment for a period not to exceed six months, or both. Each day's continued violation shall constitute a separate, additional violation.

B.

Additional penalties.

(1)

In addition to the penalties above provided, after a hearing the Town Supervisor may revoke any permit issued pursuant to this article if the Town Supervisor at such hearing determined that the holder of such permit is a persistent violator or incapable of or unwilling to comply with the provisions of this article or has intentionally or negligently acted or has acted and, as a result, has harmed or created a risk of harm to the aesthetics and environment of the Town or the health or safety of its inhabitants or has utilized said permit in a manner inconsistent with this article or has allowed said permit to be utilized by other than its issuee. The permittee shall have an opportunity to be heard at such hearing, which shall be held after such permittee shall be served by written notice of such hearing in person or by registered mail, return receipt requested, not less than 15 days prior to the date of such hearing.

(2)

The Town shall also have such other remedies as are provided by law.

§ 97-6 Exclusions.

The provisions of this article shall not apply to any department of the Town of Bethlehem providing leaf and trash pickup within the Town.

§ 97-7 Permits.

[Amended 11-14-2007 by L.L. No. 7-2007]

Notwithstanding the provisions of this article, the Town Board may, upon good cause shown, grant permits for dumping and/or the operation of a public dump or dumping within the Town on such terms and conditions as to the Town Board seem necessary or desirable, including but not limited to compliance with Articles II and/or III of this chapter and, also, the posting of such security or liability insurance as the Town shall deem necessary.

§ 97-8 Legislative declaration.

Cognizant of the ever increasing demands upon the solid waste management system within the Town of Bethlehem and the costs associated with the disposal of solid waste and recognizing the expanding role imposed upon municipal waste disposal programs by the New York State Solid Waste Management Plan and being desirous of maintaining a clean, wholesome and attractive environment within the Town and protecting the health and safety of its inhabitants and, further, recognizing the inherent dangers arising from the unrestricted or unsafe generation, collection or disposal of solid wastes or other dangerous, noxious, unhealthy and hazardous substances, the Town hereby adopts the following rules and regulations concerning the collection, transportation, disposal and management of solid waste within the Town.

§ 97-9 Applicability of state standards.

Nothing in this article shall be construed to supersede the minimum standards for solid waste management set forth by the New York State Department of Environmental Conservation or the New York State Sanitary Code, which minimum standards supersede any conflicting provision of this article to the extent that such state provisions require a standard more restrictive than that provided by this article.

§ 97-10 Definitions.

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

BULKY WASTE

Large items of refuse, including but not limited to furniture; auto parts; appliances, such as washers, dryers and refrigerators; television sets; water heaters; mattresses; springs; logs; and tree stumps.

COMMERCIAL WASTE COLLECTOR

Any person who collects residential or commercial waste from more than one household or any business or commercial establishment or industrial facility within the Town of Bethlehem or who otherwise transports or disposes of solid wastes collected from said sources or who performs any of these services for a fee.

CONSTRUCTION AND DEMOLITION DEBRIS

Uncontaminated wastes resulting from the construction, remodeling, repair and demolition of structures. These wastes shall include concrete, asphalt, stone, brick, block, wood, plaster, shingles, roofing materials and metals but shall not include any hazardous wastes or any of said listed materials which contain, include or are tainted or affected by toxic, hazardous or otherwise harmful elements, chemicals or materials.

GARBAGE

Any refuse from animal and vegetable matter and foodstuff after it has been used as food; refuse from kitchens, markets, houses or stores; floor sweepings; table wastes or animal or vegetable matter; vegetables; meats; fish; bones; and all offal and organic waste substances.

HAZARDOUS WASTE

Any waste or combination of wastes which, because of its quantity, concentration or physical, chemical or biological characteristics, possesses a substantial present or potential hazard to human or animal health or to the environment as determined by the Department of Environmental Conservation. Such waste shall include but not be limited to wastes which are bioconcentrative, highly flammable, explosive, highly reactive, toxic or poisonous, irritating, sensitizing, corrosive or infectious and shall include wastes that are solid, semisolid or liquid or contain gases. The final determination of whether or not a waste is "hazardous" or not shall be made by the Town of Bethlehem Highway Superintendent in accordance with his discretion and shall not be limited to those items or materials defined as hazardous by state and federal law, rule or regulation.

HOUSEHOLD HAZARDOUS WASTE

Household waste which, but for its point of generation, would be hazardous waste as defined by this article, including pesticides as defined in the New York State Environmental Conservation Law.

INDUSTRIAL WASTE

Solid waste generated by manufacturing or industrial processes. Such waste may include but is not limited to the following manufacturing processes; electric power generation; fertilizer/agricultural chemicals; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include oil or gas drilling production and treatment wastes, such as brines, oil and frac fluids; or overburden, spoil or tailings resulting from mining; or solution mining brine and insoluble component wastes.

PERSON

One or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies, clubs, fraternal orders and all other entities of any kind capable of being sued.

RUBBISH

Combustible trash, including but not limited to paper, cartons, boxes, barrels, wood, excelsior, tree branches, stumps, yard trimmings, wood furniture and bedding; noncombustible trash, including but not limited to metal, tin cans, metal furniture, small quantities of rock and pieces of concrete, glass, crockery and other metal fixtures; and street rubbish, including but not limited to street sweepings, leaves and catch basin dirt.

SOLID WASTE

All putrescible and nonputrescible 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 garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal. The term shall not include domestic sewage and other highly diluted water-carried materials or substance and those in gaseous form or such other items or materials excluded from the definition

of "solid waste" pursuant to the regulations of the State of New York, Department of Environmental Conservation.

SOLID WASTE FACILITY

Any facility within the Town of Bethlehem distinguished as a depository or holding or transfer point for solid wastes, including but not limited to sanitary landfills, landfills, transfer stations, recycling facilities, construction and demolition debris landfills, materials recovery facilities, incinerators, waste-to-energy plants or such other facilities that are or shall be designated as such by any law, rule or regulation of the United States, the State of New York or any ordinance, rule or regulation of the Town of Bethlehem. This term shall also include those dumps or dumping grounds or approved waste excavation material disposal sites referred to in Article I of this chapter.

WASTE EXCAVATION MATERIAL

As defined in § 97-1 of this chapter.

§ 97-11 Rules and regulations.

A.
Only solid wastes generated and collected within the Town of Bethlehem and which are not otherwise prohibited will be accepted at any solid waste facility within the Town or at any public dump or dumping ground authorized pursuant to Article I of this chapter.

B.
The Town may contract from time to time with another municipality or private person to accept solid waste, and such waste may be accepted at a solid waste facility within the Town in accordance with such a contract.

C.
All vehicles used to collect or transport solid waste shall be equipped with a means of covering the waste and/or of keeping such waste within the hauling body so as to comply at all times with the pertinent provisions of the New York State Vehicle and Traffic Law relating to littering and/or throwing refuse on highways, as set out in §§ 1219 and 1220 thereof, and any amendments thereof or additions to said act.

D.
No vehicle shall be allowed to enter or discharge solid waste at any solid waste facility within the Town unless it displays an appropriate permit sticker.

E.
Any person entering or utilizing a solid waste facility shall adhere to the rules and regulations of said facility, as well as all other laws, ordinances, rules or regulations of the State of New York, County of Albany, Town of Bethlehem or other governmental entity in regards to the collection, transportation or disposal of solid waste, and also must follow the instructions of the attendant on duty.

F.
Access to any solid waste facility shall be limited to those times as posted and when authorized personnel are on duty.

G.
All persons who collect, transport or dispose of solid wastes in the Town of Bethlehem must obtain a permit for such purposes from the Town of Bethlehem in addition to such other permits or approvals that may be required by law, rule or regulation of the State of New York, County of Albany, Town of Bethlehem or other governmental entity.

H.
No waste excavation material shall be deposited or accepted for deposit at any solid waste facility or other location within the Town unless a permit therefor has been issued pursuant to Article I of this chapter.

I.

No municipal solid waste facility within the Town shall be used for the collection or disposal in any manner of any hazardous waste, nor shall any person collect or dispose of any hazardous waste at any municipal solid waste facility with the Town. However, notwithstanding this provision, the Town of Bethlehem may operate or sponsor, and enter into contracts related thereto, one or more collection days so that household hazardous waste generated by Town residents may be accepted for disposal by or on behalf of the Town.

J.
The Superintendent of Highways may, by way of regulation approved by the Town Board, establish such additional, other or further rules, requirements and procedures concerning the collection, transportation or disposal of solid or industrial wastes within the Town.

§ 97-12 Prohibited materials.

The disposal of any of the following materials at any municipal solid waste facility within the Town is prohibited:

A.
Toxic, industrial or hazardous wastes, except that household hazardous waste may be accepted at a municipal solid waste facility as part of a collection day operated by or on behalf of the Town.

B.
Large dead animals and carcasses, including rendering products, hides, fleshings and residues from meat-processing facilities.

C.
Junk car bodies.

D.
Refillable propane or butane bottles and cylinders.

E.
Tires in large quantities (over 10).

F.
Any and all other materials or waste, hazardous or not, which the Town of Bethlehem Highway Superintendent finds would require special handling and disposal to protect and conserve the environment, employees and equipment.

§ 97-13 Requirements for permits.

Permits for the use of solid waste facilities and/or for the collection, transportation or disposal of solid waste within the Town shall be obtained as follows:

A.
Residents. Resident permits for the use of solid waste facilities shall be obtained by providing proof of residence within the Town. Resident permit stickers shall be issued and may be affixed to the private automobiles and other vehicles belonging to said residents. Said permits shall allow residents to use solid waste facilities only for the purpose of disposing of solid waste arising from the resident's household use.

B.
Commercial waste collectors. Permits shall be obtained by any such persons collecting, transporting or disposing of solid waste from more than one single-family household or from any commercial establishment, industrial or institutional facility within the Town of Bethlehem or who perform any such services for a fee. Permits may be required for each vehicle used for such purposes.

§ 97-14 Fees for permits.

[Amended 11-14-2007 by L.L. No. 7-2007]

The Superintendent of Highways, subject to the approval of the Town Board, shall adopt a schedule of fees for solid waste permits issued pursuant to this article. Said schedule may further provide for deposits or other security to be posted by the commercial waste collector or person using a solid waste facility, including but not limited to liability insurance of a nature and in an amount which shall be acceptable to the Superintendent of Highways. Permits shall be available at the office of the Town Clerk or at such other places as the Town Supervisor shall designate.

§ 97-15 Administration.

A.
The Superintendent of Highways shall be responsible for administering solid waste collection, transportation, disposal and management within the Town of Bethlehem and for the issuance of rules or regulations implementing this chapter. The Town Building Inspector shall be responsible for the enforcement of any violations of this chapter or the rules and regulations issued thereunder.

B.
The Superintendent of Highways shall be empowered to:

(1)
Establish the days and hours of operation of all facilities.

(2)
Establish rules and regulations governing the operation, maintenance and use of all solid waste facilities in the Town and the collection, transportation or disposal of solid wastes within the Town.

(3)
Suspend any permit pending a hearing for revocation pursuant to § 97-16B(1). Said suspension shall not exceed a period of 30 days. A permit may be temporarily suspended as provided for by this subsection in the event that the Superintendent of Highways determines, in his discretion, that a person holding said permit is in violation of this chapter and said violation constitutes or may create a danger to the aesthetics and environment of the Town or the health and safety of its inhabitants or that a person is utilizing said permit for a purpose or in a matter that is inconsistent with this chapter or is allowing said permit to be utilized by a person other than the issuee of said permit.

§ 97-16 Penalties for offenses.

A.
A violation of this article is hereby declared to be an offense punishable by a fine not exceeding \$350 or by imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction of a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or by imprisonment for a period not to exceed six months, or both. Each day's continued violation shall constitute a separate, additional violation.

B.
Additional penalties.

(1)
In addition to the penalties above provided, after a hearing the Town Supervisor may revoke any permit issued pursuant to this article if the Town Supervisor at such hearing determines that the holder of such permit is a persistent violator or incapable of or unwilling to comply with the provisions of this article or has intentionally or negligently acted or has acted and, as a result, has harmed or created a risk of harm to the aesthetics and environment of the Town or the health or safety of its inhabitants or has utilized said permit in a manner inconsistent with this article or has allowed said permit to be utilized by other than its issuee. The permittee shall have an opportunity to be heard at such hearing, which shall be held after such permittee shall be served by written notice of such hearing in person or by registered mail, return receipt requested, not less than 15 days prior to the date of such hearing.

(2)

The Town shall also have such other remedies as are provided by law.

§ 97-17 Legislative declaration.

Believing that a significant amount of recyclable or reusable material can be removed from the solid waste stream being generated within the Town of Bethlehem and in order to facilitate the conservation of vital and natural resources through recycling and in recognition of the established public policy of the State of New York to encourage local governments to implement comprehensive materials recycling programs as part of their solid waste management strategies, the Town Board hereby finds that it is in the general public interest to implement environmentally sound, yet economically feasible, recycling programs to complement the Town's solid waste management system. In so doing the Town Board acknowledges those findings and recommendations of the Town of Bethlehem New York Solid Waste Task Force, contained in its Recycling Plan, dated June 1989, revised July 25, 1989.

§ 97-18 Definitions.

For purposes of this article, those terms defined in §§ **97-1** and **97-10** of this chapter shall have the meanings indicated therein unless a different meaning or context is set forth or required in this article. The following additional terms shall have the meanings indicated:

COMMERCIAL WASTE

Solid waste other than residential or industrial waste.

COMMERCIAL WASTE COLLECTOR

Any person who collects residential, industrial or commercial waste from more than one household or from any business, institution or commercial establishment or industrial facility within the Town of Bethlehem or who otherwise transports or disposes of such wastes collected from said sources or who performs such service for a fee.

CORRUGATED CARDBOARD

Cardboard containers, boxes and packaging which are cleaned of contamination (e.g., food wastes, metals, plastics, excess tape) and which have been flattened or baled for transport. It excludes cereal or food-type packaging (see "paperboard").

[Amended 1-26-2011 by L.L. No. 1-2011]

GLASS CONTAINER

Clear, green and amber (brown) glass jars, bottles and containers, empty, rinsed and with rings and caps removed.

METAL CANS

Bi-metal, aluminum or other ferrous or nonferrous or composite cans and containers used for food or beverages. All metal cans shall be cleaned of contaminants, with labels removed.

[Amended 1-26-2011 by L.L. No. 1-2011]

NEWSPAPER

Common machine-finished paper, made chiefly from wood pulp, used for printing newspapers.⁽¹⁾

OFFICE, SCHOOL and HOME PAPER

All bond paper, including computer printout, stationery, photocopy and commercial wastepaper; school paper; envelopes; store receipts; and magazines, catalogs and junk mail. Staples and windowed envelopes are acceptable, but paper must be free of tape, rubber bands, paper clips, binders and other contaminants. This term excludes carbon paper, chemical transfer paper, and non-paper materials such as Tyvek envelopes or plastic-bubble-wrap-padded envelopes.

[Added 1-26-2011 by L.L. No. 1-2011]

PAPERBOARD

All single-layer cardboard, often coated with kaolin clay, typically found as packaging, including cereal or other food boxes, laundry or dishwashing detergent containers, shoe boxes, tissue containers, poster board, etc. Paperboard must be clean, dry and free of contaminants.

[Added 1-26-2011 by L.L. No. 1-2011]

PLASTIC CONTAINERS

All plastic containers, clean of contaminants, with a few exceptions. Containers made of Styrofoam/polystyrene are not recyclable. All plastic film (e.g., shrink wrap, dry-cleaning bags, etc.), plastic bags, vinyl, and very small items (straws, utensils, pens, etc.) are also excluded.

[Amended 1-26-2011 by L.L. No. 1-2011]

RECYCLABLE MATERIALS

Those materials specified by the Town of Bethlehem or the State of New York by law, ordinance, rule or regulation which are to be separated from the waste stream and held for reuse or which have, or may have in the future, market or other value. These materials shall include but not be limited to glass containers, plastic containers, corrugated cardboard, paperboard, newspapers, office, school and home paper, and metal cans, as defined herein. The Superintendent of Highways may, with the approval of the Town Board, designate other kinds of solid wastes that shall constitute recyclable material.

[Amended 1-26-2011 by L.L. No. 1-2011]

RESIDENTIAL WASTE

All solid waste generated or produced by persons occupying buildings containing three or fewer dwelling units.

WASTE SEPARATION

The segregation or separation of recyclable or reusable materials from the solid waste stream at the source of its generation or production.

[1]:
Editor's Note: The former definition of "office paper," which immediately followed this definition, was repealed 1-26-2011 by L.L. No. 1-2011.

§ 97-19 Mandatory recycling requirements.

A.
The use by a resident, pursuant to a resident permit issued pursuant to Article II of this chapter, of any solid waste facility within the Town shall be conditioned upon said resident having separated recyclable materials as required herein from the solid waste to be disposed of.

B.
As a condition for obtaining any permit required by this chapter or for the use of any solid waste facility within the Town, or for the collection of waste from residences, businesses, organizations, and industries within the Town, all commercial waste collectors shall have filed a recycling plan with and obtained the approval of the Superintendent of Highways. This plan shall set forth the procedures, means and methods by which said commercial waste collector shall perform or require the separation from the solid waste so collected of recyclable materials. Each plan must require that recyclables from residential waste will be collected as often and on the very same day as the other residential waste collected by said commercial waste collector. Such plan shall also provide a schedule for the regular collection of recyclables from commercial waste.

[Amended 1-26-2011 by L.L. No. 1-2011]

C.
In all instances, except where the commercial waste collector shall itself perform waste separation as defined herein, said commercial waste collector shall require its customers to separate recyclable waste at its source or generation point. Each commercial waste collector shall provide its residential customers with at least one Town-approved plastic bin or container, minimum 14 gallons in capacity, for the placement of recyclables prior to their collection by the commercial waste collector. Each commercial waste collector shall provide its commercial customers with Town-approved and appropriately sized dumpster(s) for the placement of recyclables prior to their collection by the commercial waste collector; these dumpsters must be physically separate from, and clearly labeled and distinguished from dumpster(s) designated for the collection of other solid waste.

[Amended 1-26-2011 by L.L. No. 1-2011]

D.
Each commercial waste collector shall, as a condition of maintaining a permit required by this chapter, file with the Superintendent of Highways written reports, at least every 90 days, containing any requested amendments to the

collector's recycling plan, which shall be subject to the approval of the Superintendent of Highways, and also report concerning the amount of solid waste collected or transported by the commercial waste collector and further quantifying the amount of each recyclable collected and the location and manner of the disposal of such recyclable materials.

[Amended 1-26-2011 by L.L. No. 1-2011]

E.

The Superintendent of Highways may, subject to the approval of the Town Board, adopt rules and regulations concerning the specific methods by which said recyclable materials shall be segregated prior to their acceptance for disposal at any solid waste facility operated pursuant to Article II of this chapter.

F.

No solid waste will be accepted by any solid waste management facility within the Town of Bethlehem, nor shall any solid waste generated within the Town of Bethlehem be transported for disposal outside of the Town, if it contains recyclables which are mixed or commingled with other solid waste.

[Amended 1-26-2011 by L.L. No. 1-2011]

§ 97-20 Further designation of recyclable materials.

The above listing of recyclable materials shall not prohibit the establishment, by way of regulation promulgated by the Superintendent of Highways with the approval of the Town Board, of such further or additional recyclable items or materials that must be separated pursuant to this article.

§ 97-21 Administration.

A.

The Superintendent of Highways shall be responsible for administering the mandatory recycling requirements of the Town of Bethlehem and for the issuance of rules or regulations implementing this chapter. The Town Building Inspector shall be responsible for the enforcement of any violations of this chapter or the rules and regulations issued thereunder.

B.

The Town Board may establish one or more sites for the operation by or on behalf of the Town of Bethlehem of a recycling facility and shall establish the days and hours of operation of all such facilities.

C.

The Superintendent of Highways shall be empowered to:

(1)

Establish rules and regulations concerning the operation and use of such recycling facilities.

(2)

Suspend any permit pending a hearing for revocation pursuant to § 97-22B(1). Said suspension shall not exceed a period of 30 days. A permit may be temporarily suspended as provided for by this subsection in the event that the Superintendent of Highways determines, in his discretion, that a person holding said permit is in violation of this chapter and said violation constitutes or may create a danger to the aesthetics and environment of the Town or the health and safety of its inhabitants or that a person is utilizing said permit for a purpose or in a matter that is inconsistent with this chapter or is allowing said permit to be utilized by a person other than the issuee of said permit.

§ 97-22 Penalties for offenses.

A.

Any person who shall commit an offense against any of the provisions of this article or fail to comply therewith or with any of the provisions thereof shall be guilty of a violation and, upon conviction thereof be punishable by a fine not exceeding \$250 for each offense or by imprisonment for a term not to exceed 15 days, and/or by both fine and imprisonment. Each act or day of continuance shall constitute a separate violation.

B.

Additional penalties.

(1)

In addition to the penalties above provided, after a hearing the Town Supervisor may revoke any permit issued pursuant to this article if the Town Supervisor at such hearing determines that the holder of such permit is a persistent violator or incapable of or unwilling to comply with the provisions of this article or has intentionally or negligently acted or failed to act in a manner that has harmed or created a risk of harm to the aesthetics and environment of the Town and the health or safety of its inhabitants or has utilized said permit in a manner inconsistent with this article or has allowed said permit to be utilized by other than its issuee. The permittee shall have an opportunity to be heard at such hearing, which shall be held after such permittee shall be served by written notice of such hearing in person or by registered mail, return receipt requested, not less than 15 days prior to the date of such hearing.

(2)

The Town shall also have such other remedies as are provided by law.

§ 97-23 Severability.

If any clause, sentence, paragraph, section, article or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 97-24 Effective date.

This chapter shall take effect September 1, 1990, and when the appropriate certified copies hereof are filed with the Secretary of State pursuant to the applicable provisions of the Municipal Home Rule Law.

When effective.

§ 97-25 Legislative declaration.

Recognizing that compliance with the State Solid Waste Management Plan and the increased commitment to reuse and recycle solid waste, both in the Town of Bethlehem (hereafter the "Town") and throughout the state, has encouraged, and will encourage in the future, the construction and operation of solid waste management facilities designed to collect, sort, process, treat, reuse in manufacturing new products and/or dispose of solid waste; and being desirous of maintaining a clean, wholesome and attractive environment within the Town while protecting the health, safety and welfare of its inhabitants; and further recognizing the inherent dangers arising from the unrestricted or unsafe siting, design, construction or operation of solid waste management facilities and the need for proper planning, siting, design, construction and operation of such facilities to protect the inhabitants of the Town and its vital environmental resources, the Town declares that the general public interest shall be served by implementing the following requirements for the permitting of solid waste management facilities to be sited, constructed or operated on land within the Town.

§ 97-26 Applicability; more restrictive provisions to prevail.

A.

The requirements and standards of this article shall be in addition to the provisions of any applicable federal, state or local laws. Where the provisions set forth below are more restrictive than provisions set forth in any applicable federal, state or local laws, the provisions of this article shall apply. Where the provisions set forth in any applicable federal, state or local law are more restrictive than the provisions of this article, then the provisions of such applicable federal, state or local law shall apply.

B.

This article shall apply to all new and existing solid waste management facilities sited, constructed, operated or located within the Town, unless otherwise specifically provided in this article.

C.

Notwithstanding any provision of the Town Code to the contrary, solid waste management facilities, as defined in this chapter, shall only be constructed and operated in those zones described in Chapter 128⁽¹⁾ of the Code of the Town of Bethlehem where solid waste management facilities are specifically described on the Schedule of Uses contained in Chapter 128 as some form of permitted use.

[Added 12-12-2012 by L.L. No. 4-2012]

[1]:

Editor's Note: See Ch. 128, Zoning.

§ 97-27_Definitions.

A.

For the purposes of this article, those terms defined in §§ 97-1, 97-10 and 97-18 of this chapter shall have the meanings indicated therein unless a different meaning or content is set forth or required by this article.

B.

The following terms shall have the meanings indicated:

BLOWDOWN

An event where steam is intentionally released into the atmosphere at fuel pressure in order to evacuate piping systems of particular matter.

CLASS I FACILITY

All solid waste management facilities used to store, for short periods of time and without sorting or processing, solid waste and/or to transfer solid waste from small vehicles to larger vehicles in order to facilitate long-distance transport. If no markets can be found within reasonable time, or such time as may be set by the Town, materials stored in "Class I facilities" shall be removed to either a Class II, III or IV facility within the Town or removed from the Town. "Class I facilities" include, but are not limited to, household hazardous waste storage facilities, recyclable materials dropoff facilities, waste exchanges, convenience centers and transfer stations. Except for household hazardous waste facilities, all facilities having a designed daily capacity of five tons per day (tpd) or less and/or cumulative intake floor storage capacity of not more than 2,000 square feet shall be exempt from the requirements of this article.

CLASS II FACILITY

All solid waste management facilities wherein physical manipulation of any kind of solid waste occurs to sort the waste stream components into identifiable fractions for the purpose of introduction into the secondary materials marketplace (recycling), for transfer to either a Class III or Class IV facility or for removal from the Town. "Class II facilities" include, but are not limited to, materials recovery facilities (MRF), intermediate processing facilities (IPF), construction and demolition (C&D) debris processing facilities and feedstocks for composting. An MRF having a designed daily capacity and operated at an average daily processing rate of less than 10 tons per day shall be exempt from the requirements of this article, except for § 97-32A(5) herein.

CLASS III FACILITY

All solid waste management facilities wherein solid waste is processed, modified, converted, treated or otherwise prepared either chemically, biologically, mechanically or otherwise to produce, create and/or manufacture component materials, raw materials or other substances to be recovered, reused or recycled. Processing can occur completely within structures, completely outdoors or in combinations thereof. "Class III facilities" include, but are not limited to, resource recovery facilities (RRF), waste-to-energy facilities, incinerators, composting facilities, sludge stabilization facilities, facilities for preparation of refuse-derived fuel (RDF) and freestanding landfill gas (LFG) conversion facilities. Regulated medical waste combustion facilities located at institutions where such waste is generated and having a designed daily capacity of less than five tons per day shall be exempt from the requirements of this article.

CLASS IV FACILITY

All solid waste management facilities where intermediate or long-term natural decomposition or permanent deposition of solid waste occurs, including related leachate (liquid) and gas management subsystems.

"Class IV facilities" may also accommodate the long-term storage of solid wastes which are not subject to appreciable natural degradation. "Class IV facilities" are commonly outdoors and are characterized by gradual placement of solid waste in prepared space. "Class IV facilities" include, but are not limited to, land applications (sewer sludge, septage and food waste), landfills and disposal facilities.

CONVENIENCE CENTER

An improved area where small amounts of solid waste materials can be unloaded from noncommercial vehicles and placed in steel containers or parked trucks for later transfer to nearby unloading areas where large vehicles routinely operate.

DESIGNED DAILY CAPACITY

The maximum amount of solid waste which can be managed in or at a facility during a twenty-four-hour period.

FOOTPRINT

That area of land actually improved through the construction of a secure, lined landfill base and upon which waste materials are deposited for disposal.

HOT LOAD AREA

An improved noncombustible surface upon which burning solid wastes may be deposited from trucks carrying them.

SOLID WASTE

All putrescible and nonputrescible materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owner(s) at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal. The term shall not include domestic sewage and other highly dilute water-carried materials or substances. For purposes of this article, however, "solid waste" shall also include septage or sludge removed from cesspools, septic tanks or other treatment or holding facilities.

§ 97-28_Prohibited acts; individual facilities to comply.

A.
Except as authorized by the Town Board pursuant to a valid permit, or renewal or modification thereof, issued pursuant to this article, no person shall:

(1)
Initiate construction of a solid waste management facility or commence any physical alteration related to construction of a solid waste management facility, including but not limited to any site work related to such construction.

(2)
Operate a solid waste management facility or any phase or part of such facility.

(3)
Modify any aspect of construction or operation of a permitted solid waste management facility.

(4)
Operate a solid waste management facility, or any phase or part of such facility, except in accordance with such valid permit, or renewal or modification thereof, or in accordance with the provisions of this article.

B.
Every solid waste management facility located on one site must be individually permitted under this article.

§ 97-29_Administration.

A.
There shall be two permits required for any new solid waste management facility under this article: a permit to construct and a permit to operate. An application for an initial permit to construct a new solid waste management facility, or any part of such a facility, or to expand an existing facility, must be accompanied by an application for an initial permit to

operate the facility. The decision to issue an initial permit to construct and/or an initial permit to operate any solid waste management facility or to expand an existing facility shall be vested in the sound legislative discretion of the Town Board.

[Amended 12-12-2012 by L.L. No. 4-2012]

B.
Applications to operate existing solid waste management facilities shall be submitted within 90 days of the effective date of this article.

C.
All applications for permits shall be made in writing, subscribed to and verified by the owner of the property and the facility operator, if different, for which the permit is sought or by the agent of the owner who is duly authorized by a written instrument, duly executed and acknowledged by the owner of property.

D.
The applications shall be made upon such forms and accompanied by complete information as required in §§ 97-31 through 97-34 of this article, which are applicable to the facility proposed, and such site and plot plans, topographic (contour) maps, building plans and specifications and other pertinent data or information as may be required by the Town Board.

E.
An application to modify a permit to construct or to operate a solid waste management facility shall be treated as a new application if any of the following actions are proposed:

(1)
An expansion of facility operations.

(2)
An increase in the quantity of solid waste received at the facility.

(3)
The installation of any additional equipment at the facility.

(4)
Change in the type of solid waste being received, handled or processed.

F.
Any person who intends to continue the construction or operation of a solid waste management facility beyond the period set forth in any permit issued by the Town shall file a complete application for renewal of such permit at least 180 days before the existing or initial permit expires. A complete application for the renewal of such permit shall be made on forms required by the Town Board. No person may continue to construct or operate a solid waste management facility unless a timely and complete renewal application, as provided herein, is submitted to the Town Board.

G.
The Town Board shall establish the applicable fees to be submitted at the time of any initial or subsequent application.

§ 97-30 Application and permit requirements.

A.
An original plus 10 copies of the application for a permit to construct or operate shall be submitted to the Clerk of the Town Board.

B.
Verification.

(1)

An application shall be executed and verified by the owner of the site and the person who will operate the facility as follows:

- (a)
By a duly authorized president or vice president in the case of a corporation;
- (b)
By a general partner in the case of any partnership;
- (c)
By the proprietor of any proprietorship; or
- (d)
By the chief executive officer in the case of a state, state agency, authority, public benefit corporation or other governmental entity.

(2)
The verified application must include a statement by the applicant in accordance with § 210.45 of the Penal Law to the effect that false statements made in the application are made under penalty of perjury.

C.
Every application for a permit to operate shall include a contingency plan as set forth in 6 NYCRR 360-1.9. In addition, the contingency plan shall include a description and list of all hazardous or toxic substances or materials to be stored or used at the facility.

D.
Permits issued pursuant to this article shall not be transferable without the specific written approval of the Town upon application pursuant to this article.

E.
Permits to construct shall be issued for a period of one-year and shall automatically expire if duly filed renewal applications are not submitted to the Town.

F.
Permits to operate shall be issued for a period of five years and shall automatically expire if duly filed renewal applications are not submitted to the Town.

§ 97-31 Siting standards.

A.
Any solid waste management facility with a designed daily capacity greater than 100 tons per day shall be directly served by either state highways or by county, city or Town roads whose abutting properties are zoned to allow nonresidential use for the entire distance between the facility site and the nearest state highway utilized (which is to be used) as part of the permitted delivery route. This requirement shall apply to all permitted delivery routes for the facility.

B.
Any facility with a designed daily capacity less than 100 tons per day may be served by state highways or county or Town roads having over 90% of the abutting properties either not developed with structures or zoned for or as otherwise allowed in the master plan for nonresidential use for the entire distance between the facility site and the nearest state highway or county road utilized (which is to be used) as part of a permitted delivery route. This requirement shall apply to all permitted delivery routes for the facility.

C.
Solid waste management facilities shall meet the minimum site requirements as follows:

(1)

Class I facilities shall have a minimum site size of one acre for each 50 tons, or part thereof, of designed daily capacity. Class I facilities may be sited as part of large commercial, industrial, governmental or institutional developments which are under single ownership but which contain multiple structures.

(2)
Class II facilities shall have a minimum site size of five acres for each 200 tons, or part thereof, of designed daily capacity. A Class II facility with a daily designed capacity of not more than 10 tons may be situated on a site with a minimum size of one acre.

(3)
Class III facilities shall have a minimum site size of 20 acres, dedicated solely for the use of the facility, and an additional one acre for each 100 tons, or part thereof, of designed daily capacity. In addition, the minimum site size set forth above shall be increased for composting facilities by one acre for each 5,000 cubic yards, or part thereof, of long-term curing or storage capacity. For facilities producing ash or other residue as part of a combustion process, the minimum site size set forth above shall be increased by 10 acres for each 150,000 tons of thirty-day storage capacity, or part thereof.

(4)
Class IV facilities shall have a minimum site size of four times the actual land surface designated for use for land spreading or four times the area designed to be developed as a footprint of the disposal facility having a twenty-year capacity at permitted loading rates or the ultimate capacity of the site if the expected life of the facility is less than 20 years.

D.
All applications to construct new facilities shall include a map setting forth the proposed solid waste delivery routes for the facilities, zoning classifications and land uses of property abutting the proposed routes and such other information as the Town may require.

E.
Notwithstanding § 97-26 of this article, the siting standards contained in this section shall apply only to net solid waste management facilities. The Town, however, shall not be precluded from requiring compliance with some or all other siting standards as a condition for a permit to construct or operate a facility pursuant to this article.

F.
Notwithstanding any section of this article to the contrary, no waste tire storage or disposal facilities shall be sited or opened within the Town. Notwithstanding any section of this article to the contrary, facilities which temporarily store waste tires shall be exempt from this article if:

(1)
Such storage is incidental to the primary use of the site;

(2)
Such storage occurs wholly on site where the waste tire was generated;

(3)
The primary use of the site is not as a regulated solid waste management facility pursuant to this article;

(4)
No waste tire is stored on site for more than 30 days and no more than 100 tires shall be present at any time in any exterior, fenced storage area or no more than 500 tires if fully stored within the interior of a building; and

(5)
The storage area is fully enclosed by fencing with a minimum height of at least eight feet or the waste tires are stored in fully enclosed and lockable containers.

A.

All solid waste management facilities shall meet the following design standards:

(1)

Site designs shall indicate utility and public rights-of-way, including those shown on adopted official maps. Amendments to official maps may be made at the same time as a permit to construct is issued and may be adjusted by the Town Board to accommodate improvements necessitated by the facility's construction.

(2)

Where vehicle scales are provided, a single scale weighing vehicles from both directions (bidirectional) may be used for facilities with designed daily capacity of up to 300 tons per day. Facilities with greater than 300 tons per day of designed daily capacity shall have separate inbound and outbound scales.

(3)

No lane reversals shall occur within a road distance of 200 feet from the facility's entrance gate.

(4)

All internal roadways, loading areas and off-loading areas shall be designed so that vehicles delivering waste materials must travel in a direction such that the driver of a left-hand drive vehicle shall have maximum visibility during initial backing maneuvers.

(5)

Except for facilities designed to manage only solid waste generated on site, facilities shall be designed to accept and shall only accept solid waste of the same type normally accepted by the facility, including recyclables, generated within the Town and delivered by the generators of the solid waste. Such facilities shall be designed to accept such solid waste during all permitted operating hours.

(6)

Freestanding radio communication antennas shall be no higher than 40 feet above the existing topography and shall be located on site at a minimum of 80 feet from all property lines. Antennas attached to buildings shall be no more than 10 feet above such buildings.

B.

Newly constructed Class I solid waste management facilities or existing solid waste management facilities expanded by more than 20% shall also meet the following design standards:

(1)

Building setbacks from all site boundaries shall be four times the building height or 60 feet, whichever is greater.

(2)

Internal roadways shall have minimum lane widths of 12 feet and with four-foot paved shoulders.

(3)

Elevated roadways (ramps) shall not exceed an eight-percent grade nor an eighteen-foot rise. Such roadways shall be concrete surfaced. Six-foot shoulders shall be constructed on elevated roadways, and guardrails shall be installed.

(4)

The maximum building height shall be 60 feet above the elevation of the intake room floor.

(5)

All solid waste unloaded from self-unloading vehicles shall occur within a building.

(6)

All materials handling shall be within a building, except for the reloading of recyclable materials from bunkers to takeaway vehicles via the building's doors. Compaction-type containers or trailers may be mechanically loaded through the building's exterior walls, although all loading devices shall be within the building.

(7)

All utilities within the site shall be installed underground.

C.

Class II solid waste management facilities shall also meet the following design standards:

(1)

Building setbacks from all site boundaries shall be two times the building height, or 60 feet, whichever is greater, if the facility is located in a light or heavy industrial zone. If the facility is located in other than a light or heavy industrial zone, building setbacks from all site boundaries shall be four times the building height or 120 feet, whichever is greater.

(2)

Internal roadways shall be paved with minimum lane widths of 12 feet and have four-foot paved shoulders.

(3)

Elevated roadways (ramps) shall not exceed an eight-percent grade nor an eight-foot rise. Such roadways shall be paved with six-foot paved shoulders and installed with guardrails.

(4)

A paved roadway shall be provided around the entire facility at a distance of less than 30 feet from all buildings.

(5)

The maximum building height shall be 60 feet above the intake room floor.

(6)

All buildings for the unloading or processing of solid waste shall be of fireproof construction and equipped with ventilation equipment capable of maintaining negative air pressure in the building and dust removal. All control rooms and employee work areas shall be climate controlled with isolated fresh air intakes.

(7)

All waste unloading, handling, processing and reloading shall occur within a building. All materials storage shall be within an enclosed building, except recyclables. Combustible materials storage shall not exceed 2,000 cubic yards in a single building, which shall be separated from all other buildings by a minimum distance of 50 feet.

(8)

Fuel storage shall be underground or in fully screened aboveground tanks and shall meet all applicable requirements for spill prevention, containment and control.

(9)

The facility shall be capable of shielding all stored waste materials from view from the site boundaries as observed from five feet above the ground surface. Electric substations within the site shall be 80% screened by evergreen vegetation with a minimum height of 10 feet.

(10)

At a minimum, the solid waste handling portion of the site shall be fully enclosed with a fence having a minimum height of eight feet and containing lockable gates.

(11)

Two site entries shall be provided for facilities having a designed daily capacity of more than 100 tons.

(12)

Three queuing positions, each 50 feet long, shall be provided before vehicle scales for each 100 tons of designed daily capacity or part thereof.

(13)

All utilities within the site shall be installed underground.

(14)

A minimum of two fire hydrants, independent from the building sprinkler system, shall be provided where public water supply service is available. If no public water supply exists, an acceptable fire pond or other acceptable water supply must be provided.

D.

Class III solid waste management facilities shall also meet the following design criteria:

(1)

Building setbacks from all site boundaries shall be 1 1/2 times the maximum building height (except chimneys, smoke stacks, etc.) if the facility is located in a light or heavy industrial zone or three times the maximum building height (except chimneys, smoke stacks, etc.) if the facility is not located in a light or heavy industrial zone. Electrical substations within a site shall be a minimum of 50 feet from the site boundary.

(2)

Internal roadways shall be paved with minimum lane widths of 12 feet and have paved six-foot shoulders. All major facility buildings or processing/curing areas shall be encircled with roadways.

(3)

Elevated roadways (ramps) shall not exceed an eight-percent grade nor a thirty-foot rise. Such roadway shall be paved with eight-foot paved shoulders, and guardrails shall be installed.

(4)

The maximum building height shall be 120 feet above the average original natural grade thereunder, except for chimneys, smoke stacks, etc., which shall be no higher than 220 feet above the original grade.

(5)

All buildings and structural components, except cooling towers, shall be of fireproof construction. All mechanical components, including turbine generators, shall be enclosed, except bailers, economizers, condensers, air quality control equipment and cooling tower fans.

(6)

No mechanical systems shall emit air pressure pulsations between one and 1,000 cycles per second, as measured at the site boundary. No mechanical systems shall emit noise between four and 200 or over 2,000 cycles per second at levels above 65 decibels, as measured at the site boundary, unless that emission comes from a required safety device or system. Steam condensers shall have a combined capacity equal to 50% or more of designed steam production.

(7)

All unloading areas and unprocessed waste storage shall be within a building. The combined storage capacity for unprocessed solid waste shall not exceed 3 1/2 times the facility's designed daily capacity and shall be clearly distinguishable from waste unloading areas.

(8)

All storage areas shall be designed to enable the loading of solid waste into transfer vehicles for removal from the facility.

(9)

All enclosed spaces shall be capable of positive ventilation with air treatment capacity. All control rooms and employee work areas shall be climate controlled with independent fresh air supplies. All residue storage and loading areas shall be within an enclosable space having positive ventilation.

(10)

Storage pits and/or floors of compost processing, curing and storage areas shall be designed with leachate control and storage systems. Fluid levels in sumps or storage tanks shall be monitored by external monitoring devices.

(11)

All floor drains shall be interconnected in a system designed to manage contaminated discharges.

(12)

All areas dedicated to product curing shall be paved and covered with a roofed structure having a maximum height of 40 feet and whose side walls must enclose the upper third of the curing space.

(13)

No exterior lighting shall be directed toward the site boundaries.

(14)

All utilities within the site, except substations and related transmission lines, shall be installed underground. Electrical substations shall be 80% screened with evergreen vegetation with a minimum height of 12 feet.

(15)

At a minimum, the solid waste handling portion of the site shall be fully enclosed with a fence having a minimum height of eight feet and containing lockable gates.

(16)

Two site entries shall be provided for facilities having a designed daily capacity of more than 200 tons.

(17)

Electrical substations within the site shall be enclosed with fencing having a minimum height of eight feet.

(18)

If located outside a light or heavy industrial zone, the site shall be landscaped along its entire public highway frontage. Landscape mounds shall be a maximum height of 10 feet.

(19)

When a facility is served by a public water supply, a minimum of two fire hydrants shall be located within 50 feet of the entrance to any intake room. If no public water supply exists, an acceptable fire pond or other acceptable water supply system must be provided.

E.

Class IV solid waste management facilities shall also meet the following design standards:

(1)

Portions of the site which are designed to receive or store solid waste, including tires, shall be a minimum of 400 feet from a site boundary. Portions of the site which are designed to store contaminated liquids shall be a minimum of 200 feet from a site boundary. Portions of the site which are the subject of mining permits shall be a minimum of 150 feet from a site boundary.

(2)

Scale houses and/or administration buildings shall be a minimum of 100 feet from a site boundary. All other buildings or structures shall be a minimum of 300 feet from a site boundary.

(3)

The maximum height of any constructed fill area shall be 80 feet above the average elevation of natural grades existing before construction of the landfill section's base.

(4)

Internal roadways intended to be used by highway vehicles shall be paved with minimum lane widths of 12 feet and have four-foot paved shoulders. All roadways surrounding a landfill's base shall be designed to handle two-way traffic.

(5)

The maximum building height shall be 40 feet.

- (6)
All buildings shall be of fireproof construction.
- (7)
A concrete hot-load area shall be provided along a landfill entrance roadway and no less than 150 feet from the scale house or other building for the inspection of delivery vehicles and the contents thereof, unless that emission comes from a required safety device or system.
- (8)
All utilities within the site, except those in the immediate vicinity of leachate storage facilities, shall be underground.
- (9)
Permanent landfill gas piping shall be installed below the barrier layer in the final cover system and underground when outside of permitted solid waste fill areas.
- (10)
Landfill gas pumping stations shall be fully enclosed. Flares shall be fully screened to avoid nighttime visibility from any point on the site boundary.
- (11)
Landfill gas pumping stations, flares, supplemental fuel storage and generating facilities shall be fully enclosed within a freestanding fence 10 feet high, with lockable gates.
- (12)
The entire site boundary shall be planted with evergreen trees within a distance of 50 feet of the perimeter fence (except for site entrances). Such plantings shall be on offset ten-foot centers.
- (13)
Electric substations shall be 80% screened by evergreen vegetation having a minimum height of eight feet.
- (14)
Fuel storage shall be underground or in fully screened aboveground tanks and shall meet all applicable requirements for spill prevention, containment and control.
- (15)
Convenience centers within the site shall have canopies over unloading and interior storage space and shall be paved. Maximum grade separations at convenience centers shall be seven feet. Grade separation walls shall project 1 1/2 feet above the upper grades. Ramps serving convenience centers shall not exceed 6% slopes.
- (16)
A concrete hot-load area having a minimum dimension of 30 feet by 40 feet shall be provided along a landfill entrance roadway no closer than 150 feet from a scalehouse or other building. This area shall be serviced by a drainage collection and recovery system, acceptable to the Town, to ensure the prevention of runoff from this area.
- F.
Design requirements set forth above may vary when applied to portions of sites between two or more facilities located on the same site and with regard to overall site size requirements when more than one facility is located on a site which is to include a Class IV facility.
- G.
All variances requested in applications for federal, state or local permits shall be identified and become a part of an application for a permit to construct under this article. The granting of a variance by another agency will not bind the Town to issue the same variance if it applies to equal or similar provisions of this article.
- H.

These design standards shall apply only to new solid waste management facilities, unless otherwise specifically provided for in a permit to operate pursuant to this article.

§ 97-33_Construction standards; insurance requirements.

A.
All construction of buildings and related structures shall be in accordance with the Uniform Fire Prevention and Building Code of New York State.

B.
For all Class I and Class II solid waste management facilities, all roadways, parking areas, signs, landscaping and utility connections shall be installed before solid waste is received at the facility.

C.
Class III solid waste management facilities shall also meet the following construction standards:

(1)
All temporary lay-down areas shall be within the site and shall not be within 40 feet of overhead utility locations. This area shall be serviced by a drainage collection and recovery system, acceptable to the Town, to ensure the prevention of runoff from this area.

(2)
On-site storage areas for residue materials generated during start-up, and prior to the issuance of a permit to operate, shall be in an enclosed building.

(3)
Heavy construction equipment shall not be operated between the hours of 10:00 p.m. and 7:00 a.m., Monday through Saturday, or on Sundays, except in light and heavy industrial zones.

(4)
Aircraft shall only be operated during the period between sunrise and sunset.

(5)
The facility shall contain adequate off-street parking for all individuals working on the site at any one time.

(6)
All off-loading of construction materials or components delivered to the site shall occur within the site.

(7)
Any utility interconnections which will cause service interruptions to other utility users shall only be made after twenty-four-hour notification to parties so affected.

(8)
Seven-day notice shall be given to the Town for scheduled blowdown sequences. In addition, all property owners and occupants of such properties within 1/4 mile of the facility shall receive written notice at least 24 hours prior to each blowdown event.

(9)
Unless otherwise directed by a public agency having responsibility for adjacent highways, no temporary signs or lighting shall be placed beyond the site boundary.

(10)
All temporary signs and lighting equipment shall be removed prior to the commencement of operations.

(11)
No outdoor electric communication devices shall be used beyond hours stipulated for heavy equipment operations.

D.

Class IV solid waste management facilities shall also meet the following construction standards:

(1)
Heavy equipment operations during construction shall only occur between the hours of 6:30 a.m. and 9:00 p.m., Monday through Saturday, including any soil processing equipment.

(2)
Aircraft operation shall only be operated between sunrise and sunset.

(3)
All deliveries of earth materials to the site shall occur between 7:00 a.m. and 7:00 p.m., Monday through Saturday.

(4)
Mechanical placement of geosynthetics shall occur only during hours when heavy equipment may operate; however, joining (seaming operations) may be conducted without limitation.

(5)
Off-street parking for all individuals working at the site at any one time shall be provided.

(6)
All stockpiled topsoil shall be graded and planted with grass during the growing season immediately following placement.

(7)
All haul roads shall be treated with water applications as required in order to prevent off-site distribution of dust.

(8)
A landfill entrance road shall be paved to the point of scale location or 300 feet, whichever is greater, prior to deliveries of earth resources from off site.

(9)
Stormwater treatment facilities and erosion control practices in accordance with Chapter 98 of the Code of the Town of Bethlehem shall be developed and made available for use prior to excavations on any other portions of the site which require pumping for discharge of accumulated surface waters.

[Amended 11-14-2007 by L.L. No. 7-2007]

(10)
All temporary signs and lighting shall be contained within the site and removed prior to facility startup.

E.

Performance guaranties and insurance.

(1)
Where the facility is to be constructed for the Town or where an applicant is seeking to operate, in whole or in part, in order to perform a service for the Town, as a condition to the issuance of a permit to construct, the applicant shall be required to obtain performance bonds for construction of a facility from a New York State authorized surety company acceptable to the Town. The amount of such performance bonds shall be determined by the Town Board on a case-by-case basis, taking into consideration the size, class and location of the proposed facility.

(2)
An applicant shall also be required to obtain comprehensive general liability insurance for claims arising out of injury or damage to persons or property during construction. In addition, an applicant shall be required to obtain environmental impairment liability and pollution discharge insurance for claims arising out of environmental damage caused by construction activities. The amount of such insurance shall be determined by the Town Board on a case-by-case basis, taking into consideration the size, class and location of the facility. On all insurance required by this section, the Town shall be named as an additional insured. All insurance shall be issued by a company licensed to do business in the State

of New York and acceptable to the Town with a rating of AA or better as reported by Moody's Rating of Insurance Companies. The applicant shall be required to maintain all insurance until a permit to operate is issued.

§ 97-34 Operation standards; guaranties and insurance requirements.

- A.
All solid waste management facilities shall be operated in accordance with the following operation standards:
- (1)
All applicable fees for facility use shall be clearly posted at locations ahead of transaction points.
 - (2)
Rules and regulations regarding site use shall be clearly posted where they can be read without traffic obstruction and shall also be available in written form to all facility users upon request.
 - (3)
Reports of facility use in terms of solid waste received, recycled, processed (including special wastes), rejected (and reasons therefor), energy or fuel generated/recovered, unprocessed bypass waste, fluids or leachate removed and/or solid waste disposed shall be prepared on a daily basis and transmitted to the Town within five business days after the close of each month.
 - (4)
Access shall be provided to Town officials or its agents at any time for the purpose of inspecting facilities and observing operations in order to determine compliance with this article. The operation of a facility within the Town shall be deemed to constitute consent to any inspection pursuant to this subsection. The refusal by an owner, operator or their officers, agents or employees to allow such inspection shall constitute grounds for the revocation of any permit issued by the Town for the facility.
 - (5)
Facilities which accept solid waste from noncontracted sources or off-site public sources shall accept similar nonhazardous solid waste from individual sources within the Town of Bethlehem, provided that appropriate fees are paid. All fees shall be as posted or as otherwise shown in the permit to operate issued by the Town and as may be amended.
 - (6)
All fences and gates shall be maintained as originally installed. All paved roadways shall be maintained free of obstructions or holes greater than four inches in any direction. Signs shall be maintained in good mechanical condition with uniform tones on all markings. All exterior surfaces of buildings or other structures shall be maintained with uniform coverings and tones.
 - (7)
The Town shall be notified immediately of facility breakdowns which cause waste bypass to facilities located at other sites, the deposition of hazardous waste or the deposition of waste which is not permitted at the facility.
 - (8)
Total daily solid waste intake shall be limited as set forth in the permit to operate.
 - (9)
All man-made surfaces (nonorganic) of buildings and all signs shall be maintained so that not more than 2% of the surface is deteriorated or damaged.
 - (10)
Structural deflection from gate and guardrails shall not exceed 5% of the original approved design. Surface conditions shall meet the standards set forth in Subsection A(9) of this section.
 - (11)

All planting shall be maintained in accordance with the landscape architecture and screening requirement of any permit.

(12)

Access to the facility shall be provided during all business hours as set forth in any permit to operate.

(13)

No dirt, dust or other material or substance of any kind shall be tracked from the facility onto any public road.

(14)

Access to and at least a fifteen-foot unobstructed clearance from all fire hydrants shall be maintained. A roadway shall be maintained at least 15 feet from all fire hydrants.

B.

Class I solid waste management facilities shall also meet the following operation standards:

(1)

Facilities having designed daily capacity of over 500 tons per day shall maintain a minimum interval of five minutes between transport vehicle movements.

(2)

Loading of rail cars may occur at any time within structures which are completely enclosed except for rail penetrations.

(3)

Loaded vehicles, including rail cars and barges, may not remain on site for more than 24 hours, if said vehicles contain putrescible materials.

(4)

The entire site, including fences, shall be cleared of accumulated solid waste each operating day.

(5)

All grass on the facility site and adjacent rights-of-way shall be maintained at a height not exceeding four inches.

(6)

Operators of facilities having a designed daily capacity of over 500 tons and which are located outside of light or heavy industrial zones shall, at a minimum, clear all public highway rights-of-way of solid waste for a center-line distance of one mile in all directions from the entrance gate every second calendar day.

(7)

No delivery vehicle shall empty any leachate, liquid or fluid waste at a Class I facility, except that the Town may permit a direct discharge monitored at all times by the facility operator and the driver of the vehicle, into a leachate or waste oil holding and removal system.

C.

Class II solid waste management facilities shall also meet the following operation standards:

(1)

The entire facility site, outside structures and structural partial enclosures, including fences, shall be cleared of all accumulated solid waste each operating day.

(2)

Operators of facilities having a design daily capacity of over 500 tons and located outside of a light or heavy industrial zone shall clear all public highway rights-of-way of solid waste for a center line distance of one mile in all directions from the site entrance every second calendar day as a minimum.

(3)

All grass on the facility site and adjacent rights-of-way shall be maintained at a maximum height of four inches.

(4)

All solid waste residuals shall be removed from the facility within 24 hours.

(5)

No delivery vehicle shall empty any leachate, liquid or fluid at a Class II facility, except that the Town may permit a direct discharge, monitored at all times by the facility operator and the driver of the vehicle, into a leachate and waste oil holding and removal system.

(6)

Loading of rail cars may occur at any time within structures which are completely enclosed except for rail penetrations.

D.

Class III solid waste management facilities shall also meet the following operation standards:

(1)

No delivery vehicle shall empty any leachate, liquid or fluid at a Class III facility, except that the Town may permit a direct discharge, monitored at all times by the facility operator and the driver of the vehicle, into a leachate or waste oil holding and removal system.

(2)

Pipeline deliveries may be made at any time. Solid waste size reduction operations shall only occur within stipulated intake hours unless all doors are closed.

(3)

Solid waste storage prior to processing shall not exceed eight calendar days, except under conditions attributable to unscheduled shutdown or capacity reduction due to mechanical failure. In the event of an unscheduled shutdown or capacity reduction due to mechanical failure, a maximum storage time of 12 calendar days may be permitted.

(4)

All waste materials remaining in storage pits longer than eight calendar days of complete facility shutdown shall be removed from the site.

(5)

All unprocessed solid waste to be removed shall be removed in fully enclosed vehicles which shall leave the site in intervals of no less than five minutes and during permitted waste intake hours only.

(6)

Following plant shutdown, solid waste shall not be accepted at a facility until unprocessed waste inventories are reduced to four days of daily designed capacity.

(7)

Unprocessed waste storage pits shall be managed to allow no more than one day's designed daily capacity to remain at the beginning of each week's intake operations.

(8)

The entire facility site, outside structures and structural partial enclosures, including fences, shall be cleared of all solid waste debris each operating day.

(9)

Operators of facilities having a designed daily capacity of 500 or more tons shall also remove solid waste from the public highway rights-of-way serving the site within a center-line distance of one mile in all directions from the site entrances each operating day.

(10)

All informational and regulatory signs shall be maintained in good mechanical condition, with uniform coloring to all backgrounds, letters and/or digits.

(11)

All planting shall be maintained in accordance with the landscape architecture and screening requirement of any permit.

(12)

Loading of rail cars may occur at any time within structures which are completely enclosed except for rail penetrations.

E.

Class IV solid waste management facilities shall also meet the following operation standards:

(1)

Machinery operation shall be limited to 1/2 hour before scheduled solid waste intake and one hour after scheduled solid waste intake.

(2)

Facilities having designed daily capacity of greater than 400 tons shall limit total solid waste intake to two times the designed daily capacity on any given day.

(3)

No delivery vehicle shall empty any leachate, liquid or fluid at a Class IV facility, except that the Town may permit a direct discharge, monitored at all times by the facility operator and the driver of the vehicle, into a leachate or waste oil holding and removal system.

(4)

Operators of facilities shall remove all solid waste debris within 50 feet of all internal site roads, landscaped areas, all primary fencing within 300 feet of frontage roads and all public rights-of-way along the site boundary each operating day. All remaining areas of the site and fences shall be cleared of solid waste debris on a weekly basis.

(5)

Operators of facilities with designed daily capacity of greater than 300 tons shall, in addition, clear solid waste debris from all public highways serving the site within a center-line distance of one mile in all directions from the site entrances each operating day.

(6)

All landfilling operations shall be such that outer slopes facing public rights-of-way are filled before interior spaces and that all resulting surfaces are covered with compact soil or plastic membrane at the close of each operating day.

(7)

Tires shall not be used for securing geosynthetic cover membrane materials.

(8)

Outer slopes which are covered with soil shall be planted with grass as soon as practicable during germination and growing seasons.

(9)

Roadway surfaces shall be maintained free of tracked earth materials for a distance of 600 center-line feet inside the entrance gate.

(10)

A single entrance gate shall be identified as the facility's normal means of access by all vehicles.

(11)

All other gates shall remain locked at all times, except emergencies involving public agency response.

(12)

All planting shall be maintained in accordance with the landscape architecture and screening requirement of any permit.

(13)

Loading of rail cars may occur at any time within structures which are completely enclosed except for rail penetrations.

F.

Performance and closure guaranty and insurance.

(1)

Where the facility is to be constructed for the Town or where an applicant is seeking to operate, in whole or in part, in order to perform a service for the Town, as a condition to the issuance of a permit to operate, the applicant shall be required to obtain performance bonds for the operation of the facility. The amount of such performance bond shall be determined by the Town Board on a case-by-case basis, taking into consideration the size, class and location of the proposed facility.

(2)

An applicant shall also be required to obtain comprehensive general liability insurance for claims arising out of injury or damage to persons or property. In addition, an applicant shall be required to obtain environmental impairment and pollution discharge liability insurance for claims arising out of environmental damage. The amount of such insurance shall be determined by the Town Board on a case-by-case basis, taking into consideration the size, class and location of the facility. On all insurance required by this section, the Town shall be named as an additional insured. All insurance shall be issued by a company licensed to do business in the State of New York and acceptable to the Town with a rating of AA or better as reported by Moody's Rating of Insurance Companies. The applicant shall be required to maintain all insurance during the effective period of the permit, and such insurance shall not be canceled by the insurer except upon 60 days' notice to the Town.

(3)

In addition to the above, and to any other requirement by a governmental unit or entity other than the Town of Bethlehem, as a condition to the issuance of a permit to operate, an applicant shall be required to provide, by bond, insurance, escrow account or other means, sufficient assurance of the ability of the applicant to timely and properly complete the closure of the solid waste facility in accordance with requirements of the Town and all other applicable state, federal or local laws. The method by which such assurance is to be provided and the amount of such bond, insurance or escrow account shall be determined by the Town Board on a case-by-case basis, taking into consideration the size, class and location of the proposed facility and the nature of its operation and possible impacts on the environment. Such bond, insurance or escrow account shall be dedicated by the applicant solely for the purposes of facility closure and related expenses and may not be diminished, encumbered or used for any other purpose by the applicant, including but not limited to as any form of collateral, without the specific written permission of the Town. The applicant shall be required to maintain such bond, insurance or escrow account during the effective period of the permit and for a period of 30 years after a solid waste facility ceases operations or a permit to operate lapses, is surrendered or is withdrawn, whichever period is longer.

§ 97-35_Monitoring and testing standards.

A.

The following operational and environmental monitoring and testing standards shall be followed by all facilities, unless otherwise provided in this article or in a permit to operate by the Town:

(1)

Operational monitoring and testing.

(a)

All components of a facility shall be monitored and tested as required in the operation and maintenance manual approved by the Town. At a minimum such monitoring requirements shall provide that:

[1]

The facility is monitored and inspected on at least a weekly basis for malfunctions, deterioration of equipment, operator error and any actual or threatened discharges constituting a violation of the conditions of any operating permit, whether issued by the Town or any other governmental agency. A record of all inspections must be kept at the facility and summarized in the monthly operating report submitted to the Town.

[2]
All aboveground tanks and associated gauges, valves and equipment shall be inspected weekly and a log maintained on file for each tank during the life of the facility and for a period of 30 years after its closure or the cessation of operations, whichever comes later.

[3]
All underground tanks and associated gauges, valves and equipment shall be monitored daily and a monitoring log maintained on file for each tank during the life of the facility and for a period of 30 years after its closure or the cessation of operations, whichever comes later.

[4]
All other pollution control systems and associated gauges, valves and equipment shall be monitored weekly and a monitoring log maintained for each pollution control system during the life of the facility and for a period of 30 years after its closure or the cessation of operations, whichever comes later.

[5]
All solid waste delivered to a facility shall be tracked and documented. The following information shall be compiled weekly: the amount of solid waste received during the week; the amount of solid waste processed during the week; the amount of solid waste removed from the facility site during the week, either processed or unprocessed; the amount of processed solid waste stored on site at the end of the week; and the amount of unprocessed solid waste stored on site at the end of the week.

[6]
Any unauthorized solid waste delivered to a facility shall be tracked and documented. The following information shall be compiled weekly: the amount of unauthorized waste delivered to the facility during the week; the person who delivered said waste; the amount of time the unauthorized waste was stored at the facility; and the solid waste management facility at which the unauthorized waste was disposed of and the means and date of delivery thereto.

(b)
In the event that the operator fails to comply with these monitoring requirements, in addition to all other remedies provided by this article, the Town may undertake such program of monitoring. All expenses related thereto shall be paid by the facility owner or operator. This shall include a full-time, Town-designated on-site monitor if required by the Town.

(c)
All monitoring records and logs shall be maintained on file and made available to the Town during the life of the facility and for a period of 30 years after its closure or the cessation of operations, whichever comes later.

(d)
Copies of all records and logs required by this section shall be submitted to the Town in monthly monitoring reports to be filed within five days of the end of the month in which such record and logs are made. Each facility shall maintain records and logs reflecting all testing of such equipment, gauges or devices, the personnel involved in such testing and the standard methods and calibration records used in relation to such testing.

(e)
All monitoring or testing reports or results for facility components required by any federal, state or local agency, or undertaken for any other reason by the owner or operator by the facility, shall also be submitted to the Town within five days of the receipt or preparation of such reports or results.

(f)
An annual facility operation, monitoring and testing report shall be submitted by the operator to the Town. The report shall be prepared by an engineer licensed to practice in New York State and shall certify that the facility has been monitored and tested in compliance with the permit to operate and the operator's operation and maintenance manual and that all components, equipment, devices and instrumentation at the facility have been properly calibrated and meet manufacturer specifications.

(2)

Environmental monitoring and testing; operations.

(a)

All facilities where the operation thereof involves or causes a discharge or emission of any kind shall be equipped with devices capable of continuously monitoring such discharges or emissions, unless such devices are not commercially available, cannot be monitored or such discharges or emissions cannot be monitored reliably, in which case the Town shall set an alternate discharge or emission monitoring requirement. If such continuous monitoring or testing device becomes available and feasible to use in the future, the Town may order the installation of such device.

(b)

Unless otherwise provided by the Town in an operating permit, all discharge or emission points shall be monitored continuously, and a record of such monitoring shall be made daily. A report of such monitoring shall be submitted to the Town within five days of the end of the month.

(c)

The monthly monitoring reports shall also include:

[1]

A copy of any reports filed with federal, state or local agencies during the month.

[2]

A report of any excess discharges or emissions or any spills or leaks into the environment, including the indoor environment, the corrective action taken and the modification to the facility's operation and maintenance manual and/or quality assurance and quality control plan to be undertaken to prevent such excess discharge, emission, spill or leak into the environment in the future.

[3]

A report of the monitoring and testing of various regulatory monitoring points established in a permit to operate. All facilities with the designed daily capacity of 20 tons per day, or storage capacity of greater than 150,000 cubic yards, and all household hazardous waste facilities shall be monitored, unless otherwise provided by the Town, as follows:

[a]

Groundwater monitoring report.

[i]

Groundwater monitoring report shall be submitted with an application for a permit to operate which shall analyze the hydrogeologic conditions at the site, with a plan acceptable to the Town setting forth procedures for obtaining, securing the integrity of and analyzing groundwater monitoring samples.

[ii]

The report shall be based on analytical data from a sufficient number of monitoring wells installed on the site to determine groundwater flow and background conditions of the uppermost water-bearing unit, unless comparable and reliable data is available and approved by the Town, in which case only one downgradient groundwater monitoring well may be required.

[iii]

All monitoring wells which are installed shall be constructed in a manner which maintains the integrity of the monitoring well and be sealed to prevent contamination of samples or groundwater.

[iv]

The report shall provide an analysis of the expanded parameters set forth in 6 NYCRR 360-2. The Town will set applicable monitoring frequencies for groundwater at the site based on the analysis of background conditions. Groundwater monitoring points shall be sampled and analyzed quarterly.

[v]

The analytical results and any other reports regarding sampling shall be certified and submitted directly to the Town by the certified lab which completed the analysis or report and summarized in the monthly monitoring report.

[b]

Surface water monitoring report.

[i]

A surface water monitoring report shall be submitted with a permit to operate and shall contain an analysis of the surface waters on site acceptable to the Town.

[ii]

The report shall contain an analysis for the expanded parameters set forth in 6 NYCRR 360-2, shall identify the proposed monitoring points and shall contain an acceptable plan setting forth procedures for obtaining, securing the integrity of and analyzing groundwater monitoring samples. The Town will set applicable monitoring frequencies for surface water at the site based on the analysis of the background conditions. Surface water monitoring points shall be sampled and analyzed quarterly.

[iii]

The analytical results and any other reports regarding sampling shall be certified and submitted directly to the Town by the certified lab which completed the analysis or report and summarized in the monthly monitoring report.

(3)

Post-closure monitoring and testing. All nonexempt facilities shall conduct environmental monitoring and testing after closure of the facility. A post-closure monitoring and testing plan shall be submitted to the Town with an application for a permit to operate a facility. At a minimum the plan shall:

(a)

Set forth procedures for obtaining, securing the integrity of and analyzing groundwater monitoring samples.

(b)

Provide for quarterly sampling and analysis of all environmental monitoring points.

(c)

Provide that analytical results, and any other reports regarding sampling, be certified and submitted directly to the Town by the certified lab which completed the analysis or report and summarized in the annual post-closure monitoring report.

(d)

Provide for at least monthly inspections and monitoring of the facility and submission of such inspection reports with the annual post-closure monitoring report. The frequency of inspections may be increased by the Town if any type of collection, treatment or storage of leachate, gas or other substance, generated at the facility after closure, will occur.

(e)

Provide a contingency plan for handling and addressing releases, contamination or threatened releases or contamination at the facility.

(f)

Provide for an annual post-closure monitoring report which shall include a narrative description of the facility, any operations and inspections during the year, copies of inspection reports, maintenance reports and analytical reports on quarterly sampling.

B.

The following monitoring and testing standards shall apply to all facilities, unless otherwise provided in the application or in a permit to operate:

(1)

Light.

(a)

The intensity of light (reflective or artificial) generated by a facility shall be controlled to prevent light levels beyond the property line from exceeding the following levels:

[1]

Daytime (reflective): not to exceed 1.6.

[2]

Nighttime (artificial): not to exceed 2.5.

(b)

The intensity of direct light must be made at an approved location on the property line. An approved light-metering or exposure device shall be used for taking all measurements.

(2)

Noise. The intensity of sound (direct or reflected) generated by a facility shall be controlled to prevent noise levels beyond the property line from exceeding the following ambient levels unless the noise emission arises from the operation of a required safety device or system:

(a)

General.

[1]

Day (7:00 a.m. to 7:00 p.m.): 80 decibels.

[2]

Night (7:00 p.m. to 7:00 a.m.): 65 decibels.

(b)

Peak.

[1]

Day (7:00 a.m. to 7:00 p.m.): 90 decibels.

[2]

Night (7:00 p.m. to 7:00 a.m.): 65 decibels.

(c)

Maximum (blowdowns only): 110 decibels.

(d)

Sustained.

[1]

Night (7:00 p.m. to 7:00 a.m.) equipment: 60 decibels.

[2]

Power lines: not greater than four decibels above ambient levels.

(3)

Airborne dirt, dust and vapors. The concentration of airborne dust, dirt or vapors generated by a facility shall be controlled to prevent the opacity from exceeding the following:

(a)

At source: Ringelmann Chart Index No. 6.

(b)

At property line: none detectable.

(4)

Vibrations. The intensity of vibrations generated by a facility shall be controlled to prevent vibrations beyond the property line from exceeding:

(a)

Air pulsations below 30 cycles: 0.001.

(b)

Ground transmissions: 10.

(5)

Landfill gas.

(a)

Flares shall be observed stationary and with ignition module activated.

(b)

The amount of airborne gas generated by a facility shall be controlled to prevent gas levels beyond the property line from exceeding greater than 2% of the lower explosive limit (LEL).

(6)

Maintenance of plantings, screening and landscaping.

(a)

There shall be germination and/or survival of all trees, shrubs or other plants required by the Town for screening and other purposes.

(b)

The height of grasses or other ground covers in open lawn areas shall not exceed four inches, except in times when the Town has declared a drought condition and has restricted the use of water in landscape maintenance.

(7)

Odors. The intensity of odors generated by a facility shall be controlled to prevent any noxious or offensive odors beyond the property line.

(8)

Vectors.

(a)

The number of birds counted in a one-hundred-foot-by-one-hundred-foot randomly selected grid on the facility site on three consecutive days shall not exceed 50.

(b)

The number of rodents counted in a ten-foot-by-ten-foot prepared grid within 24 hours shall not exceed two.

(9)

Facility air pressure. Where negative air pressure is required in a structure or facility, the barometric pressure inside the structure or facility shall be lower than the pressure outside the facility.

(10)

Storage of flammable or combustible materials.

(a)

In the event that any solid waste facility will involve the accumulation or storage of items or materials that are flammable or combustible, all such material must be stored in an area equipped with an operating sprinkler or fire-abatement system allocated to the type of materials stored, if stored within a structure or facility, and within operating range of a working hydrant if stored in an exterior area. If no public water supply exists, an acceptable fire pond or acceptable water supply must be provided.

(b)

This requirement shall be in addition to any state or local fire code or other statute or regulation governing the handling, storage or transportation of items or materials that are or may become flammable or combustible.

C.

The Town Engineer may promulgate additional rules, regulations or and/or standards to implement these monitoring and testing requirements and standards.

D.

The above requirements shall be in addition to any operational and environmental monitoring and testing standards required by any state, federal or local regulatory body. Further, the above shall not limit the authority of the Town, by this article or otherwise, to perform inspections or to receive access to data, reports or audits performed by the operator or performed or required by any other person or governmental body.

§ 97-36_Regulatory fees.

A.

Notwithstanding any general or special law to the contrary, all solid waste management facilities which require permits pursuant to this article shall submit a regulatory program fee as set forth in this section. Such program fees shall be paid annually to the Town, on such forms and at such times as are specified by the Town.

B.

All existing solid waste management facilities which require permits pursuant to this article shall be liable to the Town for the fees set forth in this section on and after [date].

C.

All new solid waste management facilities which require permits pursuant to this article shall be liable for the program fees set forth in this section on and after the effective date of this article.

D.

Liability for all program fees authorized by this section shall equal the annual fee established. The initial fee to be paid shall be prorated from the date of issuance. All payments shall be due within 30 days of billing by the Town.

E.

If the program fee is not paid within 30 days of the date it is due, a penalty shall be imposed. The amount of the penalty to be imposed shall be 5% of the amount of the program fee as originally billed. A penalty may be imposed for each thirty-day period, or part thereof, that the program fee is not paid. The total penalty imposed shall not exceed 50% of the program fee as originally billed by the Town. Notice of a determination that a penalty is due, together with a notice of the right to appeal such determination, shall be given in writing to the permit holder at the address set forth in the permit. The determination shall be final and irrevocable within 10 days, unless such permit holder requests a hearing, in writing, by certified mail addressed to the Town Supervisor. A hearing shall be held within 15 days of receipt of the request for a hearing or such later date as may be consented to by the permit holder and the Town. Notice of the final determination shall be given to the permit holder in writing after such hearing. No penalty authorized by this subsection shall be assessed until after the expiration of the period in which a hearing may be requested or the issuance of a final determination following a hearing, whichever is later.

F.

Interest shall be collected upon any unpaid amount of the program fee as billed by the Town. Interest shall be collected at the rate of 9% and shall begin to accrue 30 days after the date the fee was due and shall continue until the date payment is actually received by the Town. Interest shall accrue and be collected in addition to any penalties which may be due.

G.

The Town may suspend or revoke a permit for a facility if the program fee authorized by this section is not paid as required herein.

H.

All solid waste management facilities which require a permit pursuant to this article shall pay to the Town a program fee as shall be established by the Town Board.

§ 97-37 Enforcement; right of entry for inspections.

A.
The Town Building Inspector shall be responsible for the enforcement of any violations of this article.

B.
The Town Building Inspector, or his duly designated employee or agent, shall be permitted to enter and inspect at any time any solid waste management facility located in the Town and to access and copy all books, papers, documents and other records relating to the construction, operation and monitoring of the facility.

§ 97-38 Variances. ⁽¹⁾

[Added 12-22-1993 by L.L. No. 11-1993]

A.
Upon a written verified application by an owner, and by an operator if different from the owner, the Town Board may, in its sole discretion, grant a variance from one or more provisions of this article.

B.
An original and 10 copies of an application for a variance pursuant to this section shall be filed with the Town Clerk. An application for a variance must include evidence that:

(1)
Identifies the specific provision(s) of this article from which a variance is sought;

(2)
Demonstrates that strict compliance with the provisions identified creates practical or operational difficulties for the applicant which are substantial in nature and would impose an unreasonable economic or technological burden on the applicant or demonstrates that unusual circumstances exist, unique to the applicant, that should excuse the applicant from strict compliance with this article's provisions;

(3)
Demonstrates that the variance sought is the minimum variance necessary; and

(4)
Demonstrates that the facility, with the variance, shall not have an adverse impact on the public health, safety or welfare or the environment or natural resources of the Town and shall be consistent with the intent, provisions and policies of this article and the Town Code.

C.
In making its determination, the Town Board shall take into consideration the following:

(1)
The benefit to the applicant(s) if the variance is granted.

(2)
The detriment to the health, safety and welfare of the neighborhood, community and/or the Town if a variance is granted.

(3)
Whether the benefit sought by the applicant(s) can be achieved by any feasible method other than a variance.

(4)
Whether the variance is substantial.

(5)

Whether adverse impacts or effects may be reasonably expected if the variance is granted and whether such impacts can be mitigated by applicant(s).

(6)
Whether the applicant(s) was or should have been aware of the actual or potential difficulty or condition at the time of the acquisition of land, operation or business for which the variance is sought and whether the applicant(s) caused or created or contributed to any condition or difficulty on which the variance application is based.

(7)
Whether the variance is the minimum variance necessary.

(8)
Whether the denial of the variance will deprive the applicant of all economic use or benefit from the property in question.

D.
In making a determination to grant a variance, the Town Board may grant only the minimum variance which is necessary and adequate and, at the same time, which preserves and protects the character of the neighborhood and the health, safety and welfare of the neighborhood, community and the Town. The Town Board may impose any and all conditions and restrictions related to and/or incidental to the siting, construction and/or operation of the facility with the variance. Such conditions shall be consistent with the provisions and policies of this article and shall minimize any adverse impact or effect said variance may have on the neighborhood, community or the Town. The burden of demonstrating the need and appropriateness of the requested variance is solely that of the applicant(s).

E.
Application; hearing; determination.

(1)
Within 45 days of the date that an application is filed with the Town Clerk, the Town Board shall review the application and make a determination as to whether it is complete and contains all of the information required under this section.

(2)
If the application is determined to be incomplete, written notice shall be given to the applicant(s) containing a brief statement identifying material and information required to complete the application. The Town Board may require the submission of additional information before reaching a determination under this section.

(3)
When an application is determined to be complete, the Town Board shall schedule a public hearing on said application. Such hearing shall be held within 60 days of the date on which the Board shall determine the application to be complete. The applicant shall be responsible for all costs of any hearing(s), including but not limited to the cost of advertising and the cost of transcribing the minutes of said hearing.

(4)
The Town Board shall make a determination to approve or approve with conditions or deny the application for a variance within 30 days of the date on which the hearing transcript is accepted by the Board at a meeting of the Board or from that date when additional documentation requested at the hearing is accepted and determined to be complete by the Board.

F.
There shall be no right to a variance under this section. Upon consideration of the criteria set forth herein, the issuance of any variance shall be in the sole discretion of the Town Board. A claim that compliance with this article will cause additional cost or expense for the construction or operation of a solid waste facility or, further, that compliance with this article shall require changes or modifications in an existing facility or its method of operations shall not constitute a basis for the granting of a variance pursuant to the provisions of this article.

G.

The applicant(s) shall be liable to the Town for any costs incurred by the Town for the investigation, processing or analysis of an application for a variance, including the Town's legal fees, if any. Payment by the applicant(s) of all such costs shall be a condition precedent to the effective date of any variance granted pursuant to the terms of this section.

H.

This section shall take effect immediately upon filing with the Secretary of State.

[1]:
Editor's Note: Former § 97-38, Penalties for offenses; civil penalties; suspension or revocation of permit, § 97-39, Severability, and § 97-40, When effective, were redesignated as §§ 97-39, 97-40 and 97-41, respectively.

§ 97-39_Penalties for offenses; civil penalties; suspension or revocation of permit.

A.

Any person who shall commit an offense against any of the provisions of this article or fail to comply therewith shall be guilty of a violation and, upon conviction thereof, be punishable by a fine not exceeding \$250 for each violation or by imprisonment for a term not to exceed 15 days, and/or both such fine and imprisonment. Each act or day of continuance of such act shall constitute a separate violation.

B.

Any person who shall violate any of the provisions of this article or fail to comply therewith shall also be liable to the Town for a civil penalty of not less than \$1,000 nor greater than \$2,500 and an additional penalty of \$2,500 for each day during which such violation continues. Each act or day of continuance of such act shall constitute a separate violation.

C.

In addition to the penalties above provided, after a hearing the Town Supervisor may revoke any permit issued pursuant to this article if the Town Supervisor at such hearing determines the holder of such permit to be a persistent violator; or incapable of or unwilling to comply with the provisions of this article; or to have intentionally or negligently acted, or failed to act, in a manner that has harmed or created a risk of harm to the aesthetics and environment of the Town and the health or safety of its inhabitants; or to have utilized said permit in a manner inconsistent with this chapter; or to have allowed said permit to be utilized by other than its issue. The permittee shall have an opportunity to be heard at such hearing, which shall be held after such permittee shall be served by written notice of such hearing in person or by registered mail, return receipt requested, not less than 15 days prior to the date of such hearing.

D.

Violation of the provisions of this article by an operator shall serve as cause for the suspension or revocation of any permit issued to the owner of such facility.

E.

The Town shall also have such other remedies as are provided by law, including the right to injunctive relief.

§ 97-40_Severability.

If any clause, sentence, paragraph, section, article or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 97-41_When effective.

This article shall take effect when the appropriate certified copies hereof are filed with the Secretary of State pursuant to the applicable provisions of the Municipal Home Rule Law.